POLITICAL SCIENCE

(THEORY AND GOVERNMENTAL MACHINERY)

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DEDICATED

TO

THE MEMORY OF MY FATHER AND MOTHER

PREFACE TO THE THIRD EDITION

I have great pleasure in offering the Third Edition of Political Science (Theory and Institutions), which is the outcome of the warm and encouraging response from a large number of readers all over the country In this connection, I have to thank all those who wrote to me making comments, suggesting improvements and levelling constructive criticism on the Second Edition

Owing to unavoidable circumstances, the release of the Third Edition was unexpectedly delayed, though it was originally schedu led for publication in June 1969

Since the publication of the Second Edition in June 1967, many significant changes took place in several countries like India, Pakistan, France and the USA In India, the Indian National Congress disintegrated in 1969 following the death of President Zakir Husain Then the whole political picture at the Centre and in the States changed, and the federal pattern was heavily strained In Pakistan, President Ayub Khan, the author of "Controlled Democracy", who had staged a *coup* in 1958 himself became a victim of General Yahya Khan's bloodless *coup* in 1969 In France, President Charles De Gaulle stepped down in 1969 In the USA, President Lyndon Johnson decided not to contest again in 1968, owing to his increasing unpopularity resulting from the never ending Vietnam War While undertaking revision, all these developments have been observed, and necessary changes have been incorporated to make the book uptodate

The book has been thoroughly revised and enlarged without making major alterations in the original framework. The topics revised and expanded are

(1) Behavioural Approach,
(2) Ideological Differences between Soviet Russia and Communist China,
(3) Democracy and its Rivals,
(4) Amendment of Constitutions,
(5) Direct Legislation,
(6) Cabinet System,
(7) Civil Service in India,
(8) Judiciary in India, and
(9) Political Parties in India.

The topics or sub-topics, which have been added are

(1) Authority,
(2) Obedience to the State,
(3) The Brezhnev Doctrine,
(4) Social Background of Indian Politics,
(5) Problems of Federalism, and
(6) Administrative Tribunals

While revising, the author had to reconcile the two rules of making the topics comprehensive and of fixing the limit to the number of pages

I have to acknowledge with thanks the help I have received from various quarters I am thankful to my colleagues Prof U R Chaturvedi and Prof Miss S P Basrur for sparing time for consultation in revising topics like Democracy and its Rivals, Authority and Political Obedience, Administrative Tribunals, Federalism, and Political Parties My thanks are also due to Miss K P Parekh, our College Librarian and the other members of the staff in the Library for giving me all the help I needed

I am also thankful to Mr Y K Kelkar for typing parts of the manuscript promptly and neatly, to Mr Mangaldas Mehta for going through the proofs and for his timely suggestions, and to Mr B M Rajput for handling the manuscript carefully in the press, and to my sister Miss Meenakshi for helping me at every stage

Lastly, a special word of thanks to Mr Harkishandas, Mr Mahendra, Mr Navnit and Mr Jitendra of M/s A R Sheth & Company, Bombay and M/s Sheth Printers, Ahmedabad for their infinite patience unfailing courtesy and energetic promptitude in the publication of this book

As in the case of the earlier editions, here again I make a humble request for constructive criticism, comments and suggestions, which will be taken into account in preparing for the next Edition, if called for

Bombay,
June 15, 1970

B K Gokhale

PREFACE TO THE SECOND EDITION

I have to thank the readers of the First Edition of *Political Science* for giving me the privilege of presenting the Second Edition, which has taken note of the significant events and developments, which took place in India and other parts of the world since the release of the First Edition in 1964 These are

(1) Pandit Jawaharlal Nehru's death, the rise of Mr Lal Bahadur Shastri as India's Prime Minister, the emergence of Mrs Indira Gandhi as Prime Minister after Shastriji's death in Tashkent and her re-election in February, 1967, the humiliating reverses of the Congress in the Fourth General Election, and the formation of Non-Congress Governments in several States

(2) The end of Mr Nikita Krushchev's regime and the rise of Mr Alexei Kosygin as Premier of Soviet Russia, and the deterioration of Sino-Soviet relations

(3) The Cultural Revolution of Mao Tse-tung and his fanatical Red Guards and the great struggle for power between the Liu Shao-chi and the Lin Piao-Mao Tse-tung groups

(4) The abortive Indonesian *coup* and the ignominious fall of Indonesia's charismatic leader Sukarno

The entire book has been thoroughly revised and special care has been taken in recasting or enlarging topics like Methodology and Behavioural Approach, Communism in Soviet Russia and China, the Federal System and Indian Political Parties

I sincerely thank my Colleagues in the History-Politics Department of our college and Professors from various parts of India for their encouraging response, constructive criticism and valuable suggestions to eliminate the defects of the First Edition and introduce improvements

I am also thankful to Mr Harkishan Sheth, Mr Mahendra Sheth, Mr Navnit Sheth, Mr Jitendra Sheth, Mr Mangaldas Mehta, Mr R P Modi, Mr Babubhai and others of M/s A R Sheth & Co for their energetic promptitude, continuous cooperation and never-failing courtesy It is owing to their efforts that the Second Edition sees the light of the day with better paper, and get-up, new cover design and illustrations

I have pleasure to place this Edition in the hands of learned teachers and students in Political Science with the hope that it would receive the same response as the First Edition

Lastly, I most humbly welcome any constructive criticism for making improvements, if another Edition is called for

Bombay 81,
20th June, 1967 B K Gokhale

PREFACE TO THE FIRST EDITION

I have pleasure in offering this book to the public in general and to the college students in particular The book has been divided into two parts—Part I Political Theory, and Part II Governmental Machinery Matter has been spread over seventy Chapters, which have been grouped under twenty Sections The table of Contents and the Index are fairly detailed, and these, it is hoped, will enable the reader to reach the required topic or sub-topic in a second At the end of each Chapter summary has been given

In writing a book of this kind the author is often faced with the problem what to include and what to omit, and striking a balance becomes extremely difficult In view of the great importance of topics like *Democracy Democratic Socialism, Communism,* and *Political Parties Pressure Groups ond Lobbies,* more space has been given to them The study of topics like *Democracy* is of great significance all over the world, and in recent years particularly in backward countries, for instance, in underdeveloped countries which are placed in unenviable circumstances, the problem of choosing between democratic planning and totalitarian control has become real Some of the backward countries of Asia and Africa have found it difficult to have democratic government in the true sense of the term The rise of "Controlled Democracy" in Pakistan and "Guided Democracy" in Indonesia reveals that democracy does not have smooth-sailing everywhere It has to be admitted that within the narrow compass of this book it has not been possible to do full justice to several top cs, and readers are advised to consult advanced books, whose titles have been mentioned in the oot-notes and Bibliography

I am deeply indebted to the great scholars in the discipline of Political Science, for they have provided the fountains of knowledge and sources of inspiration I am also thankful to my teachers and collegues, whose advice was readily available I am

grateful to Principal B M Naik and Vice-Principal V V Dalvi of our College for their encouragement and for providing library facilities My sincere thanks are due to Dr (Miss) Usha Mehta, Reader in Political Science in the University of Bombay for being good enough to clear my doubts in connection with topics like *Liberty* and *Guided Democracy* I am also thankful to Dr N I Pandya, the Librarian of the Bharatiya Vidya Bhavan, and Miss Vidyut Khandwalla, University Librarian and Head of the S H P T School of Library Science, S N D T University, Bombay for providing all library facilities My colleague, Prof U R Chaturvedi was always available for discussions, and Mr R R Singh assisted me in the early stages of the book To these gentle men too I offer my sincere thanks The book had no chance of seeing the light of the day without the whole-hearted co-operation of Messrs Harkishanbhai Navnitbhai, Mahendrabhai and Jitubhai of M/s A R Sheth & Co , Bombay in publishing this book I am also thankful to Mr R P Modi, Mr Babubhai and others of M/s Sheth Printers, Ahmedabad, who have been able to print the book speedily My thanks are also due to Mr Y K Kelkar for typing out the manuscript neatly I have to record my thanks to my sister Miss Meenakshi for her unfailing support and co-operation Lastly, I also thank Miss K Parekh the Librarian of the Bhavan's College for her co-operation

Suggestions for improvement from colleagues, friends and well-wishers will be gratefully received and incorporated in the Second Edition provided this Edition serves its purpose satisfactorily

Bombay 81,
20th June, 1964

B K Gokhale

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POLITICAL SCIENCE

(Theory & Governmental Machinery)

PART I

POLITICAL THEORY

Section I
INTRODUCTORY

CHAPTER 1 MEANING AND NATURE OF POLITICAL SCIENCE

In this chapter we discuss the early studies in political science, the approach of modern political scientists, problems concerning designation, definition, meaning and terminology, the nature of the subject (whether it is a science or not), the contents of the discipline, the difficulties to be confronted by the researcher, and the purpose and value of the study

A Studies in Political Science

Study by Greeks The Greeks were the first to conduct the earliest systematic study of the subject The Sophists (the wandering teachers of *wisdom*) particularly Protagoras and Gorgias in Athens were the first expounders of political theory [1] Later on Socrates, Plato and Aristotle conducted scientific investigation into the various problems of the state Socrates did not write anything, but Plato, his pupil developed political thought in *writing* through his three dozen dialogues among which the *Republic* was the greatest In scientific studies, Aristotle outdistanced his teacher Plato and his predecessors Political thinkers hold Aristotle in exceptionally *high esteem* Frederick *Pollock* remarks "There was political speculation before him, but it was he who first brought to bear on political phenomena the patient analysis and unbiassed research,

1 *Encyclopaedia of Social Sciences* Vol 12 (1954) p 207

which are the proper marks and virtues of scientific inquiry The science of politics, like so much else of our knowledge and endeavours to know begins with Aristotle "[1] The Greeks made use of the term *politika* to describe the totality of state phenomena About 2,500 years passed since the Greek philosophers first made a kind of scientific approach to the study of the problems of the state, but it is surprising that this long period did not witness the growth of political science to its full maturity

Not Accurate Modern researchers have made a scientific approach to the subject Despite this, the discipline lacks accuracy, and its growth has been painfully slow and uneven Modern science is about 400 years old The forces of modern science have made serious scholars highly precision-conscious The urge to study the problems of state and government in a systematic and scientific manner has been great among modern political thinkers But even the most sedulous pursuit of knowledge in the political field by many scholars has not produced results which can satisfy the exacting standards of modern critics

Studies in Modern Times Some countries have made rapid strides in the study of the subject, while others are lagging far behind them The works of French and German scholars have enlightened us considerably English thinkers also contributed not a little to the development of political theory and principles Universities in Anglo-Saxon countries gave a prominent place to the study of the political philosophy of Greek thinkers like Plato and Aristotle Extensive and intensive study of ancient, medieval and modern political thought was conducted in various European countries Qualified specialists in the United States of America and Russia too joined the quest of political knowledge The patient and assiduous studies of many modern scholars have produced a large mass of literature on political science However, fastidious critics are not gratified, they believe that even in countries well known for their savants, political literature does not measure up to the requisite level In this connection, a comment on the position of political science in France is worth-noting "French literature on constitutional history on the institutions of the Third Republic and on 'administrative law' is abundant and of a high standard However essays or treatises written from the stand-point of true political science are rare "[2]

1 *An Introduction to the History of the Science of Politics* (1960) p 2

2 Raymond Aron In *Contemporary Political Science* (1950), p 51

In the Oriental countries, which were cradles of the earliest human civilization, unfortunately, the growth of political science along modern lines has been painfully tardy Even large countries like India and China did not take up the study of the subject in a scientific way, till they felt the impact of Western civilization Ancient Indians developed political ideas, and books on statecraft and diplomacy like Kautilya's *Arthashastra* and Kamandaka's *Nitisara* were written, but they did not cultivate political thought systematically as the ancient Greeks did In India, the study of political science has attracted great attention of universities in this century, and since 1938 the Indian Political Science Association has been working, but it is regrettable, that Indian scholars have not done much to enrich the knowledge of political science As Prof Yang Yu-Ch'ing of China points out, it was only after the coming of Western civilization, the study of politics was carried on scientifically in his country Unfortunate conditions in China prevented the rise of Chinese science to the level of Western science The conditions of social sciences, particularly political science, are worse than those of physical science [1] Even in the United States of America the subject has not kept pace with other sciences "Although Americans have written extensively on political science since the beginning of the century they have produced little in its most scientific branch, political theory "[2]

Fourth World Political Congress The opinion given by James Kerr Pollock in his Presidential Address at the Fourth World Congress of the International Political Science Association in Rome on September 16, 1958, gives a clear picture of the position of political science "First of all even though we are now able to assemble several hundred political scientists from all over the world we have only in recent times been recognised as an academic discipline and even today large areas of the civilized world are unrepresented here in our deliberations In fact political science is still having a hard time being accepted in many otherwise progressive countries The other discipline of the law still has its strangle–hold on political science in many areas and the sister social sciences of economics, sociology and psychology are constantly straying into our domain emerging now and then with some uncongenial mixture like 'political sociology' "[3] It has been pointed out that scepticism regarding "methods applied or the scientific

1 Ibid p 344
2 Benjamin E Lippincott Ibid p 208
3 *The Indian Journal of Political Science*, January–March 1959 p 2

character of the approach to political realities and political apathy' has been the cause of the poor growth of political science

Philadelphia Conference (1965) The American Academy of Political and Social Science organized a conference, which met in Philadelphia on 28 and 29 December 1965 to discuss the scope objectives and methods of political science Alfred De Grazia David Easton, Harry Eckstein, Hans J Morgenthau, Norman D Palmer and other scholars were invited to participate in the discussions Vernon Van Dyke observed "In these terms, no one would contend that the scope of political science is fixed very sharply or that any boundaries are all sacrosanct We have somewhat different–conceptions of the subject of our inquiries, variously describing it as politics or government or the policy process or the political system and each label carries with it some probable implications for the probable scope of the subject Moreover we pursue various approaches and methods, and again the choices that we make are interrelated with the selection of questions and data and so affect scope "[1]

Expansion of Knowledge and Resources for Political Research Despite the slow pace of political science, it has to be admitted, that modern political thinkers know what ancient philosophers like Plato and Aristotle did not The doctrine of federalism judicial review equality before the law, the cabinet system of government, and many other matters rose in modern times, thus showing the great expansion of knowledge on state and government During the last few years, there has been a large increase in the resources for political research K W Deutsh says "There has been an increase in the range, diversity and effectiveness of empirical methods of investigation, an increase in the breadth, versatility, and power of the available mathematical and statistical methods of the data analysis and interpretation "[2] In recent years plenty of invaluable and extensive data are available These have been classified into 9 categories 1) elite data dealing with elite positions (2) mass opinion data collected by sample surveys, (3) voting statistics (4) legislative voting data (5) data from content analysis (6) aggregative data including social, economic or demographic statistics (7) historical data, (8) data from social and behavioural sciences and (9) analytical, mathematical and statistical

1 Charlesworth J C *A Design for Political Science Scope Objectives and Methods* (December 1966) p 1
2 Ibid 149

data[1] Harold Lasswell, Floyd Hunter, Robert A Dahl and many others have rendered great service in the collection of data

B Difficulties of Definition and Terminology

No Separate Vocabulary One of the greatest difficulties the student of political science has to face is regarding definition and terminology The subject does not have a separate vocabulary of its own "Political science borrows its vocabulary from common speech which has one great advantage and one danger The advantage is that the subject is readily accessible to all, while the risk is that it may suffer from the same ambiguity as other contemporary debates In no country has political science sought to set itself apart by the invention of an artificial vocabulary "[2]

Lack of Precision Terms in political science cannot be explained precisely and clearly as those in sciences like physics, chemistry and biology The meaning of a word given by a particular political thinker can be challenged by other thinkers on some ground or the other "Such terms as 'state', 'government', 'politics', administration' 'nation', 'nationality' 'liberty', 'democracy', 'oligarchy' and 'people' are used in different senses and convey different meanings to different persons "[3] In the same way, words like 'imperialism , communism ', 'nationalism', and 'international law may not mean quite the same for all people There are several controversial definitions and principles in political science

In the case of natural sciences, universally accepted vocabulary is available, and the exact meanings conveyed by 'scientific', terminology can be easily understood without a shadow of doubt In the present state of our knowledge in political science, perfect and unassailable definitions and meanings cannot be given, though centuries rolled, since political thought first took shape in Greece Political scientists have not yet reached a stage at which all doubts regarding meanings of terms can be dismissed Not only terms in the subject are exposed to double interpretations, but the definition of the subject itself in not free from vagueness, ambiguity and scepticism "There is no doubt some truth in the oft-repeated assumption that citizens of the various countries do not enjoy a sufficiently clear vision of political problems and phenomena "[4]

1 Ibid p 149
2 Raymond Aron *Contemporary Political Science* (1950) p 59
3 J W Garner *Political Science and Government* (1955) p 2
4 Massimo Salvadori in *Contemporary Political Science* (1950) p 2

C Definition of Political Science

Confusion Many books have been written on political science by eminent writers, and different definitions have been given A persual of these books shows that authors themselves do not have very clear-cut views, and they find it difficult to give precise definitions Some authors write hundreds of pages on definition or rather description of the subject without pinning down the actual definition itself to a sentence or two Evidently, describing the contents of the subject is easier than giving a precise definition Much political material has accumulated in the course of age But one sees in it a jungle of confusing and sometimes conflicting statements, definitions and controversies

Systematised Study of State and Government In spite of the manifold difficulties political science is facing, it is possible to arrive at a definition in the broad sense But before studying the definition, it is essential to know the meaning of the two words ' political science ' Aristotle supposed to be the Father of Political Science first made use of the term 'politics' for his treatise on the state The term 'politics' is derived from the Greek word 'polis' In Greek polis' means city state, and the subject that studies its activities is politics

Unlike the ancient Greeks we live in large territorial states today, but the Greek meaning can be extended to the study of the modern state also The term 'science' is understood broadly speaking as a sum of co-ordinated knowledge relative to a determined subject" The two terms together therefore mean a systematised study of the state Hair-splitting arguments apart, the student of political science can understand that political science is a social science systematically dealing with the various problems of the state and government

Examples of Definition A few examples of definition can elucidate the gist of what political thinkers have to say Catlin gives a very simple and easily intelligible definition "For the text books Politics means either the activities of political life or the study of those activities And these activities are generally treated as activities of the various organs of government "[1] In the words of the French scholar Paul Janet political science is "that part of social science which treats of the foundations of the state, and principles of government ' This definition is fairly broad-based The Swiss

1 *The Principles of Politics* (1930) p 60

scholar Bluntschli says that political science is "the science which is concerned with the state which endeavours to understand and comprehend the state in its fundamental conditions, in its essential nature, its various forms of manifestation, its development"

State as Centre of Study Man as a social animal created the state in the remote past Political science studies the origin of the state, its features its functions, how the state works through its machinery 'government', the place of the individual in the state, relationship between states and so on In short, the state is the centre around which the ideas and principles of political science revolve Gettell gives a very lucid definition and meaning of political science According to him, the subject 'deals with the associations of human beings that form political units with the organization of their governments, and with the activities of these governments in making and administering law and in carrying on inter-state relations " M Bridel's definition in his *Methods and Present State of Political Science* is worth-noting 'Political science is above all a descriptive study which brings together the description of national political institutions, their history, their ideological principles, their working, the forces that direct them, the influences they undergo, the results they obtain and their effects on the life of the country and its relations with neighbouring states "[2]

D Designation of the Subject (Whether the Subject is a Science)

No Unanimity The question of the designation of the subject itself has not presented less difficulties than the other questions in the discipline There is no unanimity among political thinkers whether the subject is a science or not, and serious objections have been raised by some scholars against the use of the word 'science' Maitland goes to the extent of saying 'When I see a good set of examination questions headed by the words *Political Science* I regret not the questions but the title" Even modern scholars like Jellinek, Janet and Sidgwick prefer the title 'politics' to 'political science'

Meaning of Science According to *Chambers's Twentieth Century Dictionary* (Revised Edition), "science is knowledge ascertained by observation and experiment, critically tested, systematised and brought under general principles a department or branch of

1 *Political Science* (1956) pp 1-2
2 Quoted in *Contemporary Political Science* (1950) p 10

such knowledge or study" A science is any systematised branch of knowledge having a definite set of rules and principles A scientist studies methodically, analyses or classifies facts, observes and experiments and formulates principles The knowledge gathered by the scientist can be communicated and verified

A science can be absolutely precise, but certain sciences especially social sciences are inexact

Arguments that the Subject is Not a Science

The following arguments can be advanced to show that the subject is not a science, and therefore it should not be called political science

1 **Disagreement in Definition, Terminology and Methods** We do not find general agreement among political thinkers regarding definition, scope, terminology, methods and principles of the subject Different methods or approaches are open to the student to conduct investigation in political science instead of a universally accepted single method or a set of methods Similarly, political principles are not universally accepted and applied For instance, principles pertaining to rights and obligations are not fully accepted by all political thinkers, so also principles about the sphere of state activity Disagreement in definition and terminology goes against a scientific approach The words like *democracy socialism liberalism* and *nationalism* do not have uniform definitions They have been understood and defined in many ways A term in an exact science is not open to several meanings and interpretations As Gettell points out "the terms of political science are often used carelessly in ordinary speech, are given double meanings and are frequently distorted deliberately by being given a favourable or an unfavourable connotation for partisan or national purposes "[1] Besides, there are differences of opinion even on the scope of the subject

2 **No Precision** Lack of precision goes heavily against the subject being regarded as science Principles of political science are not precise and absolutely clear, and this has led to many controversies Universally accepted rigorous methods of scientific investigation, observation and experimentation cannot be followed and it is well nigh impossible to obtain correct results as in science A formula in physics or chemistry is universally accepted It is clear and accurate, and nobody can cast any doubt about

1 *Political Science* p 3

its veracity But this is not possible in the study of the state and government Political theories or principles cannot be put on a par with the Principle of Archimedes, the Laws of Gravitation, or the Theory of Relativity In political science, certain meanings of democracy have been accepted by many, but not by all Many panegyrics of democracy have been sung, but at the same time democracy has been brought under heavy fire of criticism While many thinkers consider democracy as the best form of government, some scholars point out with illustrations that democracy is government by ignorant and incompetent men Similarly, one cannot say definitely whether states should be mono-national or polynational, and whether legislatures should be unicameral or bicameral

3 Human Beings Figure Laboratory experiments are not possible in political science The political researcher has to deal with human beings, while the student of physics and chemistry experiments with inanimate substances All human beings are not like one another, and even the same human being does not behave in the same manner at all times Thus, they can never be reliable "objects" of experimentation Man is the author of political activity, but political activity cannot be given a made-to-order shape, as it is not possible to control man's emotions and actions For the botanist, an artificial hot house or cold room can be created to test the reactions of plant life, but the reactions in the political sphere cannot be observed like this Atmospheric pressure and temperature can be measured, but the intensity of political reactions or forces cannot be reckoned Political principles cannot be weighed in the laboratory by scales of precision or tested with litmus paper The political scientist does not have mechanical aids at his disposal like his counter-part in the exact sciences Political conditions cannot be artificially created, because man has will power, and cannot be treated like a lifeless tool Conditions of life change, and identical social conditions cannot be reproduced for experimentation at the will of the politicians or political scientists Governments with all the power they can command cannot make a nation react favourably to particular policies initiated by them The intensity of resentment the masses feel at the introduction of unsavoury and unpopular government measures cannot be calculated Governments could govern more easily than what they can do today, if human beings would be made to behave like substances in a laboratory In India, the Gold Control Order failed to have the expected results, and it caused great harassment

to the public in general, and to the goldsmiths in particular, as government could not create favourable conditions as in a laboratory

4 **Future Unpredictable** Political phenomena do not follow proper sequence like those in exact sciences according to invariable laws, and hence the political researcher finds it difficult to predict the future course of events Unlike in sciences like physics and chemistry, in political science correct predictions cannot be made. In fact, at times the effects are quite contrary to the expectations of the observer Even the shrewdest government blunders, and becomes wise only after the event Human nature is complex and unpredictable One cannot say what shape human motives and their effects will take The cleverest political researcher and the boldest political prophet cannot forecast future political events sometimes even roughly, let alone with mathematical precision Results in physcial sciences can be easily forecast The student in the laboratory knows what to expect, when he experiments with substances at a particular temperature Social phenomena on the other hand, are undergoing changes on account of a variation in human attitude in the light of new ideas and experiences Human beings have life, they have their own feelings and emotions, likes and dislikes, preferences and predilections Made-to-other reactions can never be had in the political field What is regarded as good in a particular century by a community may not be liked by society in same country in the following century Certain political principles may register great success in a country whereas the same may meet with dismal failure in another "In political science it is difficult to find uniform and unvarying laws The material is constantly varying Actions and reactions take place in various and often unforeseen ways "[1] In the modern times, thanks to the breathless pace of scientific progress, the physical and natural sciences have reached the stage at which extreme accuracy is possible In political science, however, the approach itself is beset with difficulties As Prof George B De Huzar points out, the descriptive and classificatory approaches employed by the subject cannot yield precise results[2]

5 **Lack of Objectivity** Objectivity, which characterises the study of physical sciences is lacking in the study of the state The approach in the laboratory can be absolutely unprejudiced, as the

1 R N Gilchrist *Principles of Political Science* (1938) p 5
2 Roucek & Others *Introduction to Political Science* (1954) p 9

substances on the table are lifeless The scientist is indifferent in his attitude towards them, and this makes his study detached and objective On the other hand, the subjective element in the study of problems pertaining to state and government is conspicuous In dealing with political questions, a completely impartial attitude may not be possible even in the case of the best thinker For instance, the attitude of thinkers of the various countries towards political problems betrays a lamentable lack of objectivity and detachment Indian political problems are viewed differently by different thinkers and politicians Thinkers in certain countries may be guided by economic and imperialist prejudices in viewing Indian problems Problems of imperialism, nationalism, and minorities are frequently approached in a most passionate and prejudiced manner Racial, religious, economic and other considerations weigh in the study of political questions Political disabilities of coloured peoples and backward countries may not be examined with sincerity and objectivity Political judgements may be passed without considering the merits of a case In fact, all social sciences cannot attain full objectivity [1] Even in the same country, there can be good deal of subjectivity thus leading to great controversial problems For instance, in India want of an objective approach has led to much misunderstanding and antagonism in solving questions like national language and linguistic states

Why the Subject Should be treated as a Science

Claim as Social Science In spite of the aforesaid arguments, the subject does not forfeit its claim to be treated as a social science, and a compromise can be made Instead of designating the subject as an exact science, it can be called an inexact social science, dealing only with one aspect of man's social behaviour, that is, political "Politics as a science in the sense that it is a body of knowledge that admits of statement as much as economics in general laws These laws are capable of empirical verification no less than the economic law of the inverse ratio between supply and price where demand is constant "[2] Political science may be treated like "a science of aesthetics" (Burke) or "a science of morals" (Pollock) or "an inexact natural science like meteorology " (Bryce)

1 Ibid pp 9–10
2 G E G Catlin *Principles of Politics* p 19

Aristotle considered politics as the master or supreme science, and employed scientific methods in his study of Greek city states Modern scholars like Bryce, Gettell, Garner, Seeley, Burgess and Willoughby call it a science

Systematic Study Possible Though absolute truth and precision cannot be attained, a systematic study according to scientific principles is possible Scientific methods and establishment of connection between cause and effect are possible in political science, and this has been actually demonstrated by political researchers There are no doubt defects and handicaps in the process of study "If however a science be described as a mass of knowledge concerning a particular subject acquired by systematic observation, experience and study and analysed and classified into a unified whole, then political science may justly claim to be a science "[1] Though laboratory experiments are not possible, experiments under limitations are feasible and in several countries political experiments have been successfully tried Methods of direct democracy like referendum and initiative were tried and found workable in countries like Switzerland At present, political scientists know scientific techniques of studying problems of Government and politics, which were unknown in the last Through a systematic study, political thinkers have arrived at certain broad inferences, conclusions and principles, which can be actually applied in the field of political organization For example, it is an accepted principle in political science that civil servants should be employed on a permanent basis and they should be neutral and impartial Similarly, it is agreed that the judiciary should be independent, upright and impartial, judges should be handsomely paid, security of tenure should be guaranteed and they should not be thrown to the tender mercies of the executive In India, it has been proved that communal representation is an unmixed evil creating ugly problems If political science cannot be treated as a science, no other social science can claim the same status " To say that the only real sciences are those which have exact results with the dogmatic proof of experiments is to deny the possibility of ethics, political economy, political science, sociology and metaphysics being sciences "[2]

Question of Political Sciences Some French writers suggest that it is better to speak in terms of political *sciences* than of political science They argue that the state has different aspects like social,

1 R G Gettell *Political Science* p 5

2 R. N Gilchrist *Principles of Political Science* p 5

constitutional, juridical, and economic, and each one of these aspects is intimately connected with the study of the state Each aspect is a study in itself, and it is necessary to speak in terms of political *sciences* According to them, a single discipline designated as political science cannot possibly study the complex and weighty phenomena of the various aspects of the state Constitutional law, state law, international relations, public finance etc are subjects dealing with the state Hence they deserve to be called political sciences At the Political Science Conference held in September 1948 under the auspices of UNESCO the resolution in the English version employed the term 'science,' while the French version of it made use of the plural political *sciences* [1]

Not Political Sciences Most of the writers are of the opinion that the so-called political sciences are strictly speaking co-ordinate social sciences They should not be labelled with the common term 'political sciences', but should be called law and jurisprudence, diplomacy and international relations sociology, public finance and so on Only the discipline, dealing with the state directly should be called Political Science Prof Garner is of the opinion that the use of either form may be justified by distinguishing between political science in the strict sense and in its wider sense [2] This however does not seem to be quite convincing and it is difficult to agree with this point of view Though a doctrinaire approach may justify the use of the plural in conducting a practical study of the subject in the interests of clarity, it would be better to use the term only in the singular The importance of political science or that of the co ordinate sciences is not reduced if they are called social sciences

The discipline can be definitely called Political Science, but the word *science* should not be taken too seriously as in the case of the exact science "The study of politics can be considered *scientific* only to the extent that we seek to know the truth, to discover the facts with accuracy, and to correlate causes with their consequences"[3] Therefore, it is advisable to know the limitations of the discipline

Politics also an Art Politics is not only a science, but an art to practise which skill is necessary Much training and experience

1 Massimo Salvadori in *Contemporary Political Science* p 3
2 *Political Science & Government* p 6
3 Leslie Lipson *The Great Issues of Politics* (1960) p 25

Politics Used in Bad Sense In ordinary conversation, some times we use the word "politics" in a bad sense, and say that so and so is a good man, and is above "politics" Here "politics" stands for scheming and manoeuvring and has an unpalatable taste

Political Philosophy Some writers would like the study of the state to be called political philosophy They believe that the main purpose of the subject is to justify the existence of the state and enter into theoretical and speculative considerations of the state They conduct an investigation into the basic principles of state organization The political philosopher provides answers to the fundamental questions regarding the aims of the state and draws up ideals according to which the state may function In other words, particular emphasis is laid on the 'ought-to-be' aspect of the state and on the great ideas and aspirations leading to political fulfilment, and the importance of the ultimate principles of political life is underlined The political philosopher deals with sovereignty and its limitations, law, liberty, obedience to the state and principles of social justice and equality He banks upon man's dynamic and progressive nature, and expects his thinking faculty to devise better methods of political organization

Political Philosophy not the Right Designation However, the study of the state cannot be called political philosophy It would be a misnomer, as the subject has to deal with the actual working of governmental machinery also The title, political philosophy, restricts the range of study to abstract principles and does not meet the full requirements It can be accepted only for the theory part of the state, and hence it is inadequate

F Political Theory and Governmental Machinery

Pollock's Classification Sir Frederick Pollock, who makes use of the designation Politics, breaks up the subject into two parts viz (1) Theoretical Politics, and (2) Practical or Applied Politics The first portion covers (a) Theory of State, (b) Theory of Government, (c) Theory of Legislation, and (d) Theory of State as an artificial person The topics under the first category deal with the features of the state and the basic principles of government, and do not study actual working of any particular government The second part covers (a) The study of the state (actual forms of government), (b) Government (the working of governments, administration etc), (c) Laws and Legislation (procedure courts, etc), and (d) the State personified (diplomacy, peace, war, international

dealings) These various topics deal with the actual working of governments and political institutions The classification made by Sir Frederick is realistic and valuable The two parts as envisaged by him cover the entire field of the subject and the range of both the parts put together is quite comprehensive But most of the political scientists are not happy with the designation 'Politics', as they prefer 'political science'

Political Theory and Political Organization Accepting the general lines of the classification of Sir Frederick, we can broadly divide the matter of the subject into two parts viz Political Theory and Political Organisation (Institutions) Political Theory studies principles of state and government, the origin of the state, its structure, its functions, its aims, sovereignty of the state, law basis of authority the place of the individual in the state, political rights and obligations of the individual, relation between states, limitations of state authority and so on These principles have to find expression in an actually working governmental machinery Governmental machinery is the subject matter of Political Organization

G Value of the Study of Political Science

Study Very Useful The value of the study of political science is great, because people can know how and why the state was organised in the past and why its continuation is justified By enabling people to know the aims and functions of the state and the position of the individual in relation to state authority, political science makes people conscious of their rights, and obligations People who are mentally equipped with political knowledge are assets to the state The lessons of political science like those of history are fruitful Enlightened people are capable of playing a useful part in social and political affairs Not only the individual himself reaps immense benefits from political knowledge but enables others to take advantage of his knowledge This is clear from the high level of political consciousness prevailing in advanced countries like England and the United States of America Under-developed and politically backward countries (also euphemistically called developing countries) suffer from serious handicaps In these countries, the standards in politics administration and statesmanship cannot be high owing to the low level of political research, the lack of sound knowledge and the absence of good political traditions and conventions

Value of Political Consciousness People are not quite vigilant in countries in which political consciousness is not roused or is weak Leaders and administrators in a backward country may not discharge their duties honestly and efficiently, in the absence of public criticism But a well-informed electorate having a sound knowledge of political science is ever vigilant, and it will not allow the government to rule arbitrarily An electorate having high political consciousness is an asset to the government While such an electorate strongly criticizes the government for its mistakes, it will and is capable of giving great cooperation to the government In times of grave national emergency or foreign invasion, an enlightened electorate alone will be capable of cooperating with it fully

Knowledge of Political Science Indispensable Almost every one in a state is directly or indirectly concerned with politics Hence its study is of tremendous importance in these days "A citizen encounters politics in the government of a country, town, school, church, business firm, trade union, club, political party, civic association and a host of organizations Politics is one of the unavoidable facts of human existence Every one is involved in some fashion at some time in some kind of political system "[1] Political science lays down principles, which are to be followed in the conduct of public affairs The administrator and statesman who knows political science is aware of principles which should guide him and the pitfalls should be avoided One who has no knowledge of politics is at a great disadvantage, and in one's own interests and in the larger interests of the community as a whole, it is advisable to have adequate knowledge on political matters To know the world affairs the affairs of one's own country, the condition of the various institutions, the nature and conduct of the government, the postures and policies of political parties and various other matters, a knowledge of political science is indispensable However intelligent, efficient and well-meaning the leaders at the helm of affairs may be in a country, high standard of administration would be impossible without strong material and moral support from the public When governments commit mistakes or move along the wrong track, strong and healthy public criticism can make them mend their ways or retrace their steps The conditions prevailing at present in some of the backward countries, which have become independent in re-

1 Robert A Dahl *Modern Political Analysis* (1963) p VII

years indicate how among several factors favourable to nationa strength and solidarity, one is a theoretical and practical know ledge of political science The principles and norms establishe by scholars in political science are of immense utility and value to "constitution-makers, legislators, executives and judges who need models or norms that can be applied to immediate situations"[1]

H Politics and the Common Man

Wrong Notion Many people have the erroneous impressio that political science or politics is a very easy subject, and anyon is competent to understand any political question They imagin that with a few ideas picked up here and there in the market place they have adequate knowledge to give their "humble opinion" or current political problems In India, for instance, there are people who on the least stimulation or provocation, wax eloquent o almost every political question under the sun prohibition Ind and the Commonwealth, the Kashmir Problem, the national lan uage, linguistic reorganization of states, devaluation and its dange and the Gold Control Order and its modification They do n realise that these problems are not so easy as they appear at t first glance

Sound Knowledge of Theory A sound knowledge of politic theory alone enables an individual to give his opinion on proble involving political social and economic principles Every count faces vexed questions, which are mainly political but are intimate connected with social and economic doctrines Only those wh have adequate knowledge can venture to speak with some author on them Sometimes, people with half-baked ideas pretend to ha knowledge on the powers and functions of the President of Ind or of the Prime Minister They do not know that India has the pa liamentary system and that normally the President exercises h powers on the basis of the advice given by the Prime Ministe Again, at times people praise the police even when they excee their authority In August 1966 many people praised the Punja Government for arresting "blackmarketeers" and leading them t the police stations with handcuffs While all have to praise a gover ment which treats anti-social elements as they should be, it mu also be realised that a citizen cannot be treated as a criminal unle it is proved in a duly constituted court of law Similarly, the poli exceed their authority, if they get the heads of alleged gamble

1 G A Jacobsen and M H Lipman *Political Science* (1958) p 1

shaved and parade them before the public Here again, ignorant people applaud the action of the police without realising that in a democratic state the individual has fundamental rights, which can not be taken away from him in an unlawful manner

Sometimes, we hear people saying that the Union Government in India is not taking proper action in the case of the various problems in the States They do not evidently know that India is a federation, and the Union Government cannot deal with the states as it likes contrary to the provisions of the Constitution To understand the Constitution of India fully with all its implications, a person should have a thorough knowledge of federalism

A knowledge of political principles is therefore essential to get rid of erroneous notions

MAIN POINTS

1 **Early Studies** (a) In classical Greece Sophists Socrates Plato and Aristotle (b) Study not accurate Advancement of political science in the West But P S lags behind other sciences

2 **Definition and Terminology** (a) Great difficulty Ambiguity Universal definitions not available Controversies (b) Many definitions of P S available Systematised study of state and government

3 **Designation** (a) Arguments that it is not a science Controversies want of precision lack of objectivity etc (b) Arguments that it is an inexact social science Systematic and scientific study possible

4 **Meaning of Terms** Politics political science political philosophy politician Political theory and organisation

5 **Value of Study** Makes people politically conscious Fitness to participate in state matters Well-informed and enlightened electorate asset to a nation

6 **Politics and Common Man** Wrong notion that any lay man can understand the highly technical questions in political science Thorough study needed to dispel wrong notions

7 **Politics Concern of All** To know the world and one s own state and various political institutions a knowledge of political science is essential.

CHAPTER 2 SCOPE AND METHODOLOGY OF POLITICAL SCIENCE

In the study of the scope and methodology of political science, we experience the same difficulties as we come across while dealing with the meaning and nature of the subject The political scientist does not have at his disposal clear, coherent and non-controversial methods and techniques The study is handicapped by vagueness and controversy However, certain broad conclusions can be drawn

A Scope of Political Science

Want of Clarity and Precision The scope of political science is not absolutely clear, and there is no perfect agreement among political thinkers about the frontiers of the subject While studying the definitions of the subject given by certain scholars, we find that the word 'government' or 'state' is not used This may lead us to think that the subject deals with the state only or the government only The want of precision in definitions may result in confusion regarding the exact boundaries of political science

Despite the ambiguity and controversy in the field, it can be stated that political science studies both state and government

Study of State and Government Political science is primarily concerned with the study of the problems of state and government It deals with the principles and rules of state and the machinery through which they are enforced It is incorrect to say that the study of government is excluded, as the study of the former includes the study of the latter also A significant question—why not omit the word 'government' as 'state' includes 'government'—may be asked Though 'state' includes 'government' as one of its elements, it is necessary to employ the term 'government' also, as the study of governmental machinery has to be brought to a *focus* In fact, about half of the study is devoted to political institutions or governmental machinery i e. the actual forms of government, organs of government and other matters

Political science makes an investigation into the origin of the state, the various stages of its evolution, development of state (from tribal state to nation state), the attributes of the state, sovereignty, law, ends and functions of state, individual's rights and obligations, governmental machinery, forms of government, branches of government, executive, legislative and judiciary, electorate, political parties, public opinion, local government, international organisations and other topics It studies the state " as it is, as it has been and as it ought to be ' The political scientist conducts a systematic study of the history of the state to know how people organized themselves for law and order in the remote past he also studies the features of the state as it exists today He draws up, broad principles for the functioning of state and government Applying ethical and other norms, he tries to give shape to a state in which the primary aim of achieving human welfare can be realised He, therefore, points out how the state ought to be The political scientist also tries to peep into the future and speculates about the nature of the future state

Political Theory and Institutions As observed in Chapter 1, the discipline can be broadly divided into two parts (1) Political Theory, and (2) Political Institutions or Governmental Machinery " Political Theory " studies the whole body of principles pertaining to the evolution, nature and ends of the state " Political Institutions " deals with the machinery or institutions through which the state acts

Study of Dynamics of State Political science has to reckon primarily with the human being Man, the organiser of state and government is endowed with the thinking faculty As he lives he learns also New conditions and experience make him wiser, and in the light of the new knowledge he wants to improve upon the state and governmental machinery Man's nature is not static, but dynamic Political science should not only deal with the structural aspects of the state, but with the dynamics of the state "To understand the functioning of government it is necessary for political science to work outward from the nucleus of the study of government and take into consideration social, psychological and economic factors "[1] Many changes, some of them sweeping, took place since the state rose long ago The principles of ance have been changing from time to time The state

1 J S Roucek *Introduction to Political Science* (1954) p 4

is different from what it was 500 years ago In ancient times, there were tribal kingdoms and city-states, but today there are nation-states In the remote past, the individual had no rights as such against the state as the individual has in the modern democratic state

Widening Scope of Subject Political scientists during the recent decades have widened the scope of the subject They feel that man's social life is an integrated whole, any change in man's social environment is bound to have repercussions on man's political life The modern state cannot escape from the powerful impact of the new social, psychological, economic and scientific forces Political science "must not content itself with a mere analysis of political institutions as existing at any given point of time, it must take account of the process of change and evolution and the alteration of social and intellectualenvironment "[1] In the light of the new ideas principles and attitudes in modern times, the scope of the activities of the state has been broadened The concept of the police state has been given up, and that of the welfare state has been accepted

Scope According to UNESCO Political scientists who held a conference in September, 1948 at the UNESCO House discussed the scope of the subject and marked out the subject matter viz. (1) Political Theory, (2) Political Institutions, (3) Political Parties, and (4) International Relations Under the first category the history of political theory and political ideas is studied, the second covers a study of constitution, national government, regional and local government, public administration, economic and social functions of government and comparative political institutions, the third topic studies political parties, groups and associations, participation of the citizen in the government and administration, and public opinion, the last takes into consideration international politics, international organisation and administration, and international law[2]

What the Student Should Study The student of political science should learn the following

(a) (1) Political science as a science of state and government, its relationship with other social sciences and its methodology

(2) Meaning of state its origin and functions and the sphere of state activity

1 Leacock S *Elements of Social Science* p 5

2 Refer to *Contemporary Political Science* (1950) p 4

(3) Relationship between the individual and the state
(4) Forms of government
(5) Organs of government and administration
(6) Role of political parties
(7) Local government
(8) International organisations

(b) (1) Meaning of basic terms like state, government, nation, sovereignty, law, rights duties, constitution etc
(2) General concepts and principles viz preponderance of national government over local bodies, submission of individual and associations to the sovereign authority of the state, the theory of separation of powers, the responsibility of the executive to the legislature in the cabinet system, the supremacy of the constitution in a federation, the subordination of the permanent executive to the political executive, the lack of sovereignty in international organisations like the League of Nations and the U N O and so on

(c) Analysis and evaluation

B Methodology of Political Science

Beginning in the Nineteenth Century It was only as late as the nineteenth century that political thinkers thought that the study of the state deserved to be treated in a scientific manner Once, the subject secured a better status, several eminent scholars wrote on problems connected with state and government

No Clear Methodology Even now, after a bumper crop of political literature has been published, it is difficult to point out clearly and precisely the methods of studying the subject The picture of methodology is blurred, and the methods and approaches are far from clarity and systematisation "If a considerable proportion of the literature written on the methods of political science does not convey to the reader any impression of a firm progress or any solid and convincing explanations, this, it would seem, is largely because they deal with questions which are really either not concerned with method at all, or at least only concern it in a secondary sense by "repercussion", in other words, the writers proceed, implicitly no doubt, from a notion of "method" that is neither very reliable nor very accurate Many writings on the method of political science base themselves on the wider and more popular notion, which suffers from the fact that it is of a

heterogeneous nature"[1] Relatively speaking, the tools or instruments at our disposal for the systematic study of political science leave much to be desired They are (again relatively speaking) poor, ambiguous, inadequate and not fully reliable

Aim of Science The aim of any science whether natural or social is to know the truth, and there should be no deviation from the path leading to truth Political scientists as seekers of truth are under an obligation to give matter (pertaining to state and government) which is correct and factual They have to gather knowledge systematically, treat it critically, analyse and classify facts, and evolve a clear set of principles In modern times, particularly in the nineteenth century, in which the serious study of the subject was started, political researchers emulated the methods of researchers in the natural sciences The aim of the nineteenth century political scholars was more or less the same as that of the seekers of truth in the physical and natural sciences 'For two thousand years after Aristotle, the first scientific scholar in the West to treat facts seriously, few great socialist thinkers turned to empirical research When they finally did feel the need to examine the behaviour of men more closely, the method of physical sciences stood as a model"[2] The work of Copernicus, Kepler, Galileo and particularly of Newton had a great appeal to the researchers in the social sciences

Craze for Scientific Method The craze for a thorough scientific investigation misled the political researcher into the belief that it would be possible to treat political science like physics or chemistry Superficial resemblance was struck between physical phenomena and social phenomena, but the tremendous work behind the laboratory experiments and scientific investigation in exact sciences was ignored by the political scientist It was forgotten that political science did not have the advantages of the exact sciences Political scientists were bound to be disillusioned

Disillusionment The degradation of the human being and his brutalisation as indicated by the two global wars in the twentieth century made scholars think seriously about the value of scientific methods It became clear that the knowledge of the scientist can be misused and scientific knowledge need not necessarily lead to the realisation of human happiness and welfare Political science cannot be put on a par with the value-free natural sciences, as the former has to deal with human beings The craze

1 Charles Eisenmann *Contemporary Political Science* (1950) p 110
2 David Easton *The Political System* (1959) p 7

for a hundred per cent scientific investigation in political science gradually diminished The disillusioned world realised that moral and spiritual values are necessary for survival of human beings, and they are not to be lost sight of in conducting research in political science With the loss of the original glamour of extremely rigid scientific methods, it became clear in the twentieth century that ethical and moral values should not be sacrificed before the altar of science

Variety of Methods and Approaches Though all political investigators have to agree that realisation of truth and achievement of human welfare should form the goal, there is no unanimity, about the methods to be followed to reach the end "As far as methodology in political science is concerned, experts want to speak of a variety of methods philosophical, dialectical, juridical sociological, psychological economic and normative methods, methods of liberty and of the natural sciences experimental, integral and statistical methods, etc The outstanding feature of this terminology is perhaps its ambiguity Clearly specialists use of the word *method* in a great variety of different meanings "[1] Scholars like Auguste Comte, John Stuart Mill, Bluntschli and James Bryce made invaluable contribution in the field of political methodology

Need of Ability and Skill The political researcher has to command good deal of ability and skill in handling various types of material at his disposal viz standard books, dictionaries, encyclopaedias, newspapers, periodicals of different types, records of legislatures, constitutions, laws, diaries, letters, year books and miscellaneous sources

UNESCO Project It was encouraging to see the scholars attached to the UNESCO evincing keen interest in the study of political science The UNESCO launched the project "Methods in Political Science" in February 1948 with the arrival of Dr W Ebenstein (at the UNESCO), Professor of Political Science at Princeton University in the United States Collaborators from various countries contributed fifty essays and reports to build the book *Contemporary Political Science* These studies showed that even in recent years researchers could not strike complete unanimity

C Different Methods and Approaches

Despite the lack of precision in methodology, some methods and approaches have been widely accepted In the field of metho-

1 M Salvadori in *Contemporary Political Science* (1950) pp 3–4

dology, we are particularly indebted to John Stuart Mill, Auguste Comte, Alexander Bain, Lord Bryce and Sir George Cornewall Lewis Methods are broadly divided into Deductive and Inductive

(a) Deductive Method

Philosophical or Speculative The philosophical method is *a priori* or deductive or speculative Plato, Bluntschli, Rousseau, Kant, Bosanquet, Mill, Sidgwick, and others advocated the use of this method It "does not argue from facts to laws, but starts with assumptions about the nature and ends of the state based on philosophical ground or taken from actual experience, and then determines the institutions best adopted to realise them i e constructs an ideal on their basis and criticises existing institutions." Political institutions are envisaged on the basis of ethical and philosophical concepts The ends and purposes of the state are drawn from an ethical or philosophical angle Political science has many abstract principles and philosophical ideas Many writers like Plato, Sir Thomas More, Locke, Rousseau, Kant and Mahatma Gandhi laid down great philosophical principles

Merits The political philosopher deserves encomium for drawing great principles for whose realisation the state exists In this age of science and materialism, the philosophical method is of great value While science is to be given the importance due to it, great principles, human values and ethical considerations have to be accorded a proper place It is here that the philosophical method guides the investigator properly and prevents him from getting lost in the world of mere facts and experiments

Defects Ethical or philosophical principles may be of immense value from the theoretical point of view, but it may be almost impossible to translate some of them into practice Howveer good principles may be in themselves not all of them may be of much value in the actual world, as there is a wide gap between the philosopher's soaring idealism and the hard realism of the imperfect world The high sounding philosophical principles may find scope only in rosy and pleasant dreams For example, the plans put forth in Plato's *Republic* are too idealistic to be followed in the world of practical affairs Plato himself realised that nowhere in the world there could be a state answering to the description of the ideal state pictured in his *Republic* The same can be said about Sir Thomas More's *Utopia* Man is full of weaknesses and ethereal ideas may be far beyond his reach The philosophical

method seeks to draw conclusions from principles, which are taken for granted and which are not capable of being tested properly

Challenge of Reason Before the Renaissance in Europe, much imporatnce was attached to the philo ophical or deductive mehtod Certain authorities like the *Bible* or the works of Aristotle were regarded as perfect or infallible [1] Premises drawn from these were taken as above board, and on the basis of these premises (not tested on the touchstone of reason) conclusions were drawn However, with the dawn of the age of reason, the deductive method had to face the challenge of scientific investigation Researchers refused to accept premises as correct even though they were taken from the scriptures or from other great authorities Only statements, which could be proved as correct became the basis of further study In the light of the new knowledge of science, faulty and untrue statements were discarded or old principles were modified The great progress made in experimental science and the new attitude of the Renaissance scholars created conditions favourable for the use of inductive logical methods according to which principles were drawn on the basis of known and tested facts

The switch over from the attitude of faith to the attitude of reason was certainly a change to be welcomed Better results could now be obtained by the new approach

Cautious Use of the Philosophical Method Political science however has to recognise values and o the philosophical or speculative method cannot be cast aside with contempt The wise researcher would make a very cautious use of the deductive method, and that also to a limited extent only The researcher should be vigilant to see that he is not led into the clouds of empty speculation and idealism far removed from practical life

(b) Inductive Methods

1 Historical Method

Explains the Past The historical or genetic method, which is inductive is of great importance, as it studies the origin and development of the state with the help of the raw material supplied by history The researcher cannot ignore the past and deal only with the present and the future The foundations of the state that we see today are in the remote past The researcher has to study

1 See Jacobsen & Lipman *Political Science* (1958) p 5

both the foundations and the superstructure of the state Among the exponents of this method are scholars like Seeley, Freeman and Laski Political institutions are the products of a historical evolution It is through the historical method that we know why and how the state was organised in the past, why law was made, and how a machinery was established to enforce law The political activities of the ancient Egyptians, Chinese, Babylonians, Indians, Persians, Greeks, Romans and other peoples are brought to light by the political scientist from the pages of history Particularly, the political institutions of the Greeks and the Romans have been picked up for study

Guides Future The historical method not only explains the past, but guides into the future The political scientist takes note of the political success and failure of the people of the past A deep and thorough study of history for a political purpose can make enlightening revelations Inferences, generalisations and conclusions can be drawn regarding political institutions "History not only explains institutions, but it helps us to make certain deductions for future guidance It is the pivot round which both the inductive and deductive processes of political science work"[1]

Merits The very fact that the historical method reviews the past and guides into the future makes it quite indispensable to the student of political science The world learns much by experience The present is indebted to the past, and the future owes a debt to the present It is through the historical method that we know how and why certain political institutions originated and developed Similarly, we know the causes that led to the degeneration, wilting withering and destruction of some political institutions History tells us why the ancient Roman Republic failed and on its ashes an Empire was built History is al o a witness to the gradual and successful growth of British political institutions and traditions It is history again that explains how new political ideas and thoughts grew in the world Without the historical method, political science would have been poorer, as it could not take advantage of the great contributions of Plato, Aristotle Cicero St Augustine, St Thomas Aquinas, Dante, Machiavelli, Bodin, Hobbes, Monte quieu, Hegel, Mill Marx and others The origin and growth of the forces of liberalism, nationalism and democracy cannot be understood without the use of the historical method On the basis of carefully selected hi torical facts it is possible to have significant generalisations

1 R N Gilchrist *Principles of Political S ience* (1938) p 7

Criticism The historical method has been criticised by scholars like Sidgwick. It has been contended that history only mentions what happened in the past without advising what ought to be done to political institutions. History, being chiefly inductive, does not deal with values, and this lacuna has to be filled by a study of ethics or philosophy. Besides, history does not give the merits and defects of political institutions. Another drawback is that the historical method may not be of much value to a dynamic or rapidly changing society. As centuries roll on, conditions of society undergo changes, some of which are revolutionary. What was true about political institutions a thousand years ago may not be true today. Political conditions in the twentieth century are quite different from those of the nineteenth century.

How To Use the Method No one would claim that any particular method is perfect, and the historical method like other methods has defects. But to some extent the edge of criticism has been softened, as history is being studied methodically and scientific procedures are used. The political investigator is not to make use of all and sundry historical details, but only those which are germane to a systematic political study. Proper care should be taken to prevent the historical method from decaying into "blind empiricism." The researcher should also keep his mind open, lest he should develop an unwholesome conservative spirit. He has to remember that conditions vary from age to age and country to country, and the same solutions may not be useful at all times and in all countries. While he has to note that exactly similar conditions may bring about identical results, he should not be misled into the belief that history always repeats itself. History may not repeat itself at times. Only a critical, cautious and objective study of historical conditions will enable the investigator to obtain good results.

2 Comparative Method

Discovering Resemblances and Differences The comparative method also uses inductive logic. In ancient times, Aristotle made a vast comparative study in the field of political science, and in modern times De Tocqueville, Montesquieu and Bryce followed it. John Stuart Mill says that the comparative method can be employed in different ways, and the best among them is of "difference." The investigator following this method studies histo-

rical facts, political conditions and events, and tries to examine whether there are resemblances or differences He makes a comparative study of political events and institutions in different countries at different times For instance, he may find striking resemblance between the backgrounds to the origin and growth of democratic institutions in two countries A comparative study enables him to know the conditions that favoured the growth of these institutions and he may be in a position to draw his own inference Similarly, he may study why democratic governments established at the same time in two different countries did not work satisfactorily A student of political science may do well to examine the conditions that led to the success of democratic governments in certain Asiatic countries in the twentieth century and to the failure of others in Asia in the same century The comparative method tells us why political development was relatively smooth in the United States of America after the (American) War of Independence and why on the contrary the French Revolution was followed by a Reign of Terror and by the establishment of Napoleon s dictatorial power The comparative method by striking resemblances and differences links causes and effects

Cautious Use With the comparative method alone one cannot study political science, and even while using it, great care has to be exercised The processes of selection, comparison and elimination of facts coming under this method have to be followed with utmost discrimination The researcher should beware of falling into a trap of apparent or superficial resemblances and should avoid making unwary generalisations The researcher should not forget that political phenomena are the results of numerous factors and therefore while striking similarities, he should not ignore some of them A careless use of this method may result in misleading conclusions

3 Method of Observation

Political Observation on the Scene The method of observation also is inductive The investigator following this method gathers, analyses and classifies material after coming in contact with and observing and studying the political institutions and the persons running them at a close range The observer may not depend upon hearsay or second-hand information, he may actually go to the scene of political activity and make careful observation so that the study becomes thoroughly objective and scientific He is at the centre of events and he may actually take notes o

what is happening with minute details He may seek interviews and have wire recordings and movies Bryce, who strongly expounded this method, visited countries like the United States of America, Canada, France, Switzerland, Australia and New Zealand to make painstaking observations The facts that he observed and verified found expression in his books like *The American Commonwealth* and *Modern Democracies* Lowell, who also spoke highly in favour of this method went to the extent of saying that political science is an observational and not an experimental science Though this view cannot be fully accepted, the emphasis laid by him on the importance of observation has to be appreciated

Merits The chief merit of this method is that it is practical and realistic Matter accumulated by the researcher, who takes advantage of this method is verified and its veracity ascertained The researcher puts down on paper what he actually observes and studies and not something which is imaginary or speculative This method has also the great merit of precision, provided it is employed by one, who is really competent The facts furnished by the careful and understanding observer can stand any challenge The material placed at our disposal by scholars like Bryce is invaluable, as it is correct and factual Inferences and conclusions are drawn on the basis of matter-of-fact details

Defects The study of political science cannot be complete by making use of this method only, and other methods have to be employed Unlike the historical method, this method does not take the researcher into the past to enlighten him about the origin and growth of political instiutions and thought But actually, without saying it in so many words, it presupposes that the observer is armed with the knowledge of adequate historical facts It is absurd to imagine that Bryce went to study political conditions in different countries without having a proper grounding in the historical evolution of political institutions The observational method makes heavy demand on the researcher, whose vision should be clear and observation keen, discerning and discriminating Without the requisite calibre, the researcher is bound to fail and mislead others by his inadequate study and incorrect observation He may overlook important facts, but include in his papers facts and comments of minor importance, if he cannot pass his material through the sieve It is also likely that he may not make an objective and detached approach, and his writings

after his faulty observation may be coloured by bias or preconceived notions Another defect is that it does not deal with moral and ethical values, and here it badly requires the prop of the philosophical method

Need of Trained Observer Followed by competent and critical minds, the observational method is bound to be of great importance The observer's eye has to be trained well, and must be in a position to separate the grain from the chaff It is a pity that very few political scientists actually make significant observations ' Relatively few political scientists have the opportunity to participate extensively in high level politics at the national and state capitals, a slightly broader group eddy round these scholars"[1] The method of observation was very popular in the nineteenth century during which scholars were imbued with the spirit of observation and followed the scientific method "The nineteenth century showed an ever increasing tendency to lean on observation, in large part historical in the beginning, but later in increasing measure related to contemporary social behaviour Comte, Spencer and Marx are the triumvirate who dominate the century"[2]

4 **Experimental Method**

Comte favoured the use of the experimental method as one of the three principal methods (The other two methods are of observation and comparison)

Experiments with Handicaps Possible We have already observed how social conditions cannot be artificially created and experiments as in the physical sciences are not possible in political science However, even with handicaps, experiments in political science can be conducted 'Every change in the form of government, every new law passed, every war is an experiment in political science These are materials for political science, just as, say carbon, is material for chemistry"[3] If the laboratory is the field of activity of the natural science researcher, the entire world consisting of states or political groups is the laboratory of the political scientist Governments can follow a new line of action or policy or administrative methods on an experimental rather than on a permanent basis Only if the experimental line

1 David Easton *The Political System* (1959) p 49
2 Ibid p 11
3 R. N Gilchrist *Principles of Political Science* (1938) p 6

of action or policy is successful, it can be put on a permanent basis In several countries, political or constitutional experiments have been successfully conducted

Success or failure of experiments depends on several factors in a country Oliver Cromwell s constitutional experiments failed in England, because heirt spirit was alien to the temperament of the British people Obviously, Cromwell could not create according to his dictates and will conditions favourable to his experiments The experiment of diarchy in the provinces, according to the Montford Act, 1919 in India was bound to fail, as it was an artificial combination of opposing principles and responsibility was divided in an absurd and ridiculous manner Similarly, the communist government formed in the State of Kerala in 1959 failed in its experiment, as the people in general did not support the communist excesses

The experiment of the bilingual State of Bombay too was a dismal failure, as a vast majority of people were against it and so bifurcation of Bombay into Gujarat and Maharashtra became imperative in 1960 The democratic experiment with constitutional monarchy in England was successful, and today England presents the glorious model of a parliamentary democracy with the king as the nominal executive The experiment of adult franchise was successful in India as testified by the four mammoth general elect tions held in 1952 1957, 1962 and 1967 India has taken advantage of the political experiments made by England and the USA So also China emulated Soviet Russia's example in staging a revolu tion and in establishing a communist government Political experiments teach valuable lessons and they enable people to know what to retain and what to avoid and eliminate

Merits The experimental method is useful, as it studies experi ments in the different fields of political science "By observing the operation of a new law or a new policy and then enlarging or diminishing its scope as experience suggests modification the legislature is able to adapt its provision to the needs and desires of the community"[1] In modern times, the experiment of separating the judiciary from the executive has yielded favourable results and so many states have introduced the principle Now, it is an accepted principle that there can be no impartial justice, if the judiciary is under the obligation of the other organs of government In British India, the experiment of communal

1 J W Garner *Political Science and Government* (1955) p 18

electorates proved to be disastrous, and the Constituent Assembly (1946-1949) took the right step in scrapping separate electorates The experiment of prohibition aiming at saving people from the demon of drink proved to be very costly, and most of the States in India had to give it up Thus experiments, whether consciously or unconsciously conducted, give valuable experience for future guidance

Limited Scope of Experimentation The drawbacks of the experimental method have to be noted, particularly because political science is a social science The method does not go far enough to be singly capable of conducting political investigation The very nature of political science, and the human element with which it has to deal very much limit the scope of the experimental method Laboratory experimentation is impossible, as political conditions cannot be brought under full control Human nature cannot be experimented upon in the same way in which inanimate substances can be Constitutional or political experimentation can never enjoy the favourable controlled conditions in a laboratory The leaders in a country conducting experiments in democratic methods may find themselves exposed to sudden and unforeseen dangers and calamities Their efforts may be brought to naught by the outbreak of a war or the rise of famine The Sino-Indian War in 1962 the Indo-Pakistan War in 1965 and the numerous dry and wet famines upset India's democratic plans for a better standard of living It is manifest therefore that the political investigator conducts experiments under great handicaps and limitations It goes without saying that results can never be precise

Sir George Cornewall Lewis and Lord Bryce criticised the experimental method

5 Statistical Method

Collection of Data In modern times, statistics occupies an important place in the study of political science for the compilation of voting figures, analysis of government finance and other purposes The researcher making use of this method collects valuable data Much laborious task is involved in the method The data collected and tabulated are placed at the disposal of the statesman or politician The statistical figures are indices of the conditions prevailing in the different fields

The study of public opinion and propaganda is made with the help of statistical techniques

Merits The significance of statistics has been fully realized Without statistical figures, the real picture of a country cannot be known The statistician reveals the population, the strength of the majority minorities, the national income, the industrial and agricultural resources, mineral wealth and other useful information, and on the basis of these figures, the government of a country can chalk out its plans to improve the conditions of the people Every enlightened government in modern times draws up various types of ambitious plans, and this will hardly be possible without statistics For conducting elections, for introducing new measures of taxation and for several other purposes, the statistical method is of great importance

Criticism The statistical method cannot challenge comparison with other more important methods like the historical or philosophical method It can be regarded as an auxiliary method that furnishes valuable facts and figures It is needless to say that it has to go along with other methods of investigation to complete political study in a scientific manner

6 Biological Method

State as an Organism The followers of this method regard the state as an organism and strike similarity between the structure and development of the state and those of a living organism The student guided by this method studies the state organs and their functions by employing terminology and procedure similar to those in the biological science

Criticism The interesting analogies that this method may furnish do not lead the researcher far In fact, biological comparison may be apparent and not real and it is likely to mislead the student "It requires but little reflection to see that the resemblance between the body politic and the human organism is at best only superficial, that the laws of growth and change which govern the one are inapplicable to the growth and development of the other, and that little or nothing is to be gained by dwelling upon the analogy"[1] The poverty of the biological approach makes serious thinkers cast doubts upon the very status of the method Some writers do not even regard it as a method, but only as a point of view

7 Sociological Method

State a Social Organism The sociological method regards the state chiefly as a social organism which has the qualities of

1 Ibid p 19

ouralists, and emphasized that the correct approach to the study of political science was behavioural However, all did not fall in line with them While behaviouralists considered behavioural approach as a sure path of 'salvation' in study, others opposed to them who regarded themselves as traditionalists strongly cavilled at the new approach

The emergence of the behavioural approach has been of great significance With the acceptance of the new approach, the study of political science has assumed a new dimension

Behavioural Scholars Among the prominent behavioural political scientists, we may take note of Robert A Dahl, David Easton and Heinz Eulau These scholars desired to make the study of political science more systematic and scientific

(b) Meaning of Behavioural Approach

No Unanimity The behavioural scientists, who engaged themselves in discussing the exact connotation of the term 'political behaviour', could not reach a clear agreement "To some, it meant the psychology of individuals in political situations To others, it meant emphasis on the 'science' in political science' and to still others it meant merely the behaviour of voters"[1] However, when the dust of controversy settled down, a sort of a general agreement seemed to have emerged, that behavioural approach deals with all political activity, and not with the activity of voters alone

Man's Political Behaviour The behavioural approach consists in bringing into the focus of political research the political behaviour of man viz his motives, feelings, beliefs, actions, objectives and attitudes It underlines the importance of the behaviour of individuals or groups of individuals as units of political investigation Heinz Eulau observes "The political behaviourist concentrates on the behaviour of individuals whose interactions and transactions make up collective behaviour, even if he is concerned with describing and explaining the actions of groups, organizations or other large collectivities Groups, organizations or nations have no independent status apart from the conduct of the individuals, who are related by behaving towards each other in certain ways"[2]

Man Root of Study The behaviouralist regards man as the root of his study and investigation He believes that "a study of

1 Bone and Ranney *Politics and Voters* (1962) p 3
2 *Behavioural Persuasion in Politics* (1963) p 14

politics which leaves man out of its equations is rather barren politics ", and that "definitions unrelated to the behaviour of of man in politics as in any other area of human activity have no content "

The political behaviouralist deals with political activity of human beings important as well as unimportant outside the formal and legal organizations of government To him, the most important matter of politics and government is the behaviour of people Peter H Merkl points out 'Instead of studying, for example, the United states Supreme Court or Congress as institutions, members of the behavioural school have turned to the study of the behaviour pattern of the Supreme Court Justices and of Senators and Congressmen "[1]

(c) Aims and Techniques of Behaviouralists

The aims and objectives of political scientists employing various methods and approaches are the same The behavioural approach is different from the historical, legal and other methods only in its orientation and not in objectives

Pragmatic and Empirical The behavioural approach is pragmatic, catholic, eclecitc and empirical It is based on positivism and induction, and it studies problems of facts It aims at a thoroughly scientific approach, and steers clear of abstract philosophical principles Its emphasis is on the study of the behaviour of individuals and groups rather than on abstract principles, structures and events In dealing with the human nature and behaviour, it fixes its attention on psychological and sociological variables "It seeks to place political theory and research in a frame of reference common to that of social psychology, sociology, and cultural anthropology political behaviour is assumed to be a function of personality, social organization and society "[2]

The behaviouralist says that "political institutions are behaviour systems or systems of action" which have no existence apart from individuals He selects for his study on a very wide arena very important as well as ordinary men and women on the street He draws up principles relating to political behaviour and strikes uniformities

Scientific Methods In studying political behaviour, the investigator employs different scientific methods including quantitative

1 *Political Continuity and Change* (1967) p 23

2 Eulau Eldersveld and Janowitz (Ed) *Political Behaviour A Reader in Theory and Research* (1959) p 3

and statistical methods The study of human behaviour rests on facts, which are precisely, patiently and diligently gathered The investigator conducts field surveys and sample pollings, and the facts which are marshalled are tabulated and analysed One of the methods commonly used is of questionnaire With the help of questionnaire addressed to selected groups, the researcher can know the political attitudes and responses of people

Basic Elements of Political Behaviour Alfred De Grazia refers to the basic elements of political behaviour These are "leadership, political groupings, public opinion, representation, party organization, and the use of economic, psychological and coercive pressures in politics—all of which occur very generally, on all levels of government, in all political institutions, and in pursuit of all kinds of goals "[1]

Leadership The political behaviouralist pays the greatest importance to the study of leadership In every community, association, group, lobby and political party, the influence of the leader is of paramount significance The extent of the influence of the leader of the group, how and why the members of the group follow him and the reactions and responses of the ordinary rank and file in the group are brought under the study of the behavioural expert

Actual Processes of Politics While making the behavioural approach, the researcher studies the actual processes of politics How decisions are made, and how they are taken can be known from the empirical research of the behaviouralist, who has to go deep behind the formal structure of institutions Leslie Lipson points out "The behavioural method records the details of what men do, seeking to explain why they do it Politics is defined as the decision-making process The political scientist examines the persons who make the decisions, how they make them and why The passions that permeate the subject he considers with clinical detachment of a doctor and charts with dispassionate neutrality '

The researcher who studies, for instance the working of the Indian National Congress deals not only with the constitution of the Congress but with the political behaviour of important and unimportant members of the Congress The attitude and influence of prominent members like Mr S Nijalingappa (the President)

1 *The Elements of Political Science Political Behaviour* (1962) pp 7-8
2 *The Great Issues of Politics* (1967) p 21

Mr K Kamaraj, Mr Morarji Desai, Mr Y B Chavan, Mr S K Patil, Mrs Indira Gandhi and Mr Atulya Ghosh are subjected to thorough examination and scrutiny, as also the reactions and responses of the ordinary Congressmen belonging to the various parts of India It is the study of the political behaviour of the individuals in the Congress which enables us to understand why the Congress broke up into 2 factions nicknamed Syndicate and Indicate

Intensive and extensive research studies have been conducted in recent years on voting behaviour particularly in the United States of America As Bone and Ranney point out, the political scientist studies the horizontal and vertical dimensions of voting behaviour The horizontal represents the voters' preference and the vertical shows the six main categories of the voters' activity viz (1) organizational activities (2) organization contributors, (3) opinion leaders, (4) voters, (5) non-voters and (6) apoliticals (those having neither knowledge nor interest in politics)

The scholar making the behavioural approach deals with the political behaviour of individuals at all levels, within and without political institutions and groups, with their political likes and dis likes, reactions and responses Peter H Merkl observes 'Just as economists approach economic behaviour by observing how people produce, buy, sell, exchange, invest, speculate and consume, so should political scientists study political behaviour by studying how man rules and obeys persuades and compromises, promises and bargains, coerces and represents, fights and fears "[1]

(d) Merits of Behavioural Study

The following are the merits of behavioural approach

(1) Better Scientific Study The behaviouralists have shown how it is possible to conduct studies in political science in a more scientific and realistic manner Peter H Odegard says 'Because the behaviouralist subordinates imagination to observation and metaphysical abstractions to 'observed realities' he has carried political science another step in the direction of becoming what Auguste Comte hoped it might some day be a positive science "[2]

(2) Valuable Data The behaviouralists have gathered through their investigation valuable data for the proper study of political science Behavioural research has enriched the discipline and has thrown much light on important matters like ' the quality of poli-

1 *Political Continuity and Change* (1967) p 24
2 *Political Power and Social Change* (1969) p 54

tical participation, the intensity of political preference or the individual's orientation to political action " Problems of leadership, voting pattern, role of parties, lobbies, and pressure groups, and political attitudes, prejudices and preferences are all investigated by the behavioural scientist Such studies have taken breath-taking strides since the end of World War II, and have furnished scientific and analytical data in individual and group behaviour Peter Odegard points out "The development of improved procedures for sampling, interviewing, and observing populations, and for the coding and analysis of data, have added new dimensions to nearly every aspect of political science New data-processing equipment has speeded up the accumulation of knowledge concerning political behaviour by a factor not easily estimated "[1]

(3) Thought Provocation by Radical Change in Approach In the twentieth century, there has been good deal of dissatisfaction with the traditional methods or approaches to the study of political science The behavioural scientists have shown how better study can be conducted through their new approach Even though the new approach has not found favour with all scholars, and there has been carping criticism of the exaggerated claims of behavioural scientists, there has been a net gain The acceptance of the new approach by many and the rejection of it by some have created much useful controversy and thought-provocation Political science is a dynamic discipline it has been made more so by the advocacy of the use of a new approach by behavioural scientists Peter H Merkl significantly observes "The more recent wave of methodological innovation in political science, the behavioural approach had been beating on the ramparts of the established methods of political science for the last decade and a half, and has now been generally accepted and integrated into the discipline there is hardly a doubt that the conflict and challenge to accept new ideas brought about by the waves of innovation are of great benefit to the development of the discipline "[2]

Defects The behaviouralist should be aware of the following drawbacks of the approach

1 Vagueness There is vagueness about the meaning of political behaviour Though the behavioural approach is trying to be thoroughly scientific and value-free, it is subject to great limit-

1 Ibid., p 54
Political Continuity and Change (1967) p 22

tions First of all, the behaviouralists themselves are not agreed on what precisely is political behaviour "Defining political behaviour is a delicate problem partly because people in politics define and interpret what they do differently and partly because political scientists are by no means agreed on what they mean when they say that thay are studying political behaviour "[1]

2 **Study Not Easy** The study of political behaviour of human being is not easy "Behavioural practitioners" find it difficult to reach the standards, which they set for themselves, as they have to deal with human beings and not substances in a laboratory The behavioural approach may enable the researcher to study simple situations, but it may be failing in dealing with complex and dynamic situations

3 **Not Superior to Other Methods** Making a behavioural approach at the cost of the historical, philosophical and other methods of value will be disastrous to political science In spite of the credit claimed by the proponents of behaviouralism for the new approach, one cannot accept that it is superior to the other methods

4 **Indifference to Moral Values** The behavioural approach seems to be blind to moral values in its over-enthusiasm to make political science absolutely positive and empirical The behavioural scientist obsessed by the desire to know how political decisions are taken forgets to examine their contents Leslie Lipson points out the danger of relying on facts alone without making any reference to moral norms "The amassing of details concerning how men behave is a dead weight of intellectual slumber unless it suggests how men ought to behave The factual data of politics must be judged and appraised by moral criteria "[2] Peter Odegard observes ' In general, contemporary behaviouralists eschew concepts of what *ought* to be or even of what *could* be were people of a mind to have it o To be scientific, they seem to say, one must be neutral among values, and indifferent to the outcome of the great game of politics It is this posture, as much as anything that accounts for the failure of the behavioural frame of reference to give new life and new direction to political science "[3]

1 Heinz Eulau *Behavioural Persuasion in Politics* (1965) p 6

2 *The Great Issues of Politics* (1967) p 21

3 *Political Power and Social Change* (1969) p 64

Conclusion The behavioural approach can be used with advantage along with other methods But making use of this approach alone completely ignoring other methods will not lead us far in the field of political science

Conclusion About Methodology

Importance of Inductive Logic In the foregoing pages, the different methods of political investigation have been reviewed and criticised Broadly speaking, the methods come under two categories deductive and inductive Except in the philosophical method, we find that the investigator mostly relies on inductive reasoning This is because in an age of science and reason 'the spirit and method of all true sciences is inductive and pragmatic, not deductive and dogmatic It is also positive, that is, it rejects all *a priori* arguments, purely abstract ideas and absolute standards, and builds conclusions upon the accumulated experience of the past, as modified by the changing conditions and circumstances of the present '[1]

In ancient and medieval times, the methods generally followed were ethical, religious or theological In modern times, these deductive methods have lost their original importance

Need of Different Inductive Methods The different inductive methods should be fully used according to the problem to be studied and not rely exclusively on one method only The researcher may do well to take advantage of the fruits of the historical observational, experimental and comparative methods, and also study the subject from the sociological, juridical and psychological angles It is then only that facts and ideas can be understood and appreciated in their proper perspective The purpose of the scholar is to obtain good results and so he would better refrain from making a fetish of certain methods at the cost of others

Philosophical Values It has been admitted that the philosopher working on political questions hould not allow his imagination to work havoc and ignore the real political problems of the world But the philosopher should guide the politician and statesman, as human values cannot be jettisoned in the name of scientific reasoning and precision In fact, today the world is in need of moral values as never before The power-crazy politicians may forget human values and moral standards and try to trample upon

1 J W Garner *Political Science and Government* (1955) p 15

human dignity and personality No one can gainsay that the state exists for the sake of the individual and not *vice versa* Ethical principles have to be accorded a respectable place in the study of political science Over-enthusiastic champions of positivism and empiricism and strong proponents of the behavioural approach should not ignore the methods, which rely on values

Harmonious Combination and Open Mind The wise investigator would make a realistic approach to the study of political science by bringing about a harmonious combination of the deductive (philosophical) and inductive methods He will remember that the two kinds of methods are not contradictory to each other When used cautiously, they can be made to rectify the drawbacks of each other, and supplement each other This would mean a healthy combinaiton of realism and idealism The student of political science would do well to keep his mind open so that he can conveniently employ the most useful method or methods in the study of political problems This would lead him to truth

It may be reiterated here that scholars are not satisfied with the progress of research in political science "We might attribute part of the cause of the inching pace of political research to a relative lack of concern for questions of methodology, the logic behind the scientific procedures which political scientists often say they are using "[1]

Methods and Approaches Some scholars these days draw a distinction between methods and approaches For instance, they prefer to speak of psychological, legal, sociological and behavioural approaches and do not like to use the word 'methods' It is difficult to note the clear difference between methods and approaches, *as the former include the latter also There is definitely no* unanimity regarding the connotation of the word 'method' "It needs no more than a glance to observe that the word 'method' is understood in many different ways Only a few authors deal with method, properly so-called, that is rational workings of the mind in its quest for knowledge for political reality sometimes 'method' is used in the sense of technical devices for gathering data More often it implies the points of view adopted by specialists " (Massimo Salvadori)[2]

1 David Easton *The Political System* (1959) p 48
2 *Contemporary Political Science* (1950) p 14

MAIN POINTS

1 **Want of Clarity and Precision** Scope not clear Words like state or government omitted by certain definitions Therefore confusion

2 **Scope** Study of both state and government Study of dynamics of state Scope of state activity widening these days

3 **What is Studied** (1) Political science and its relations with other social sciences Nature origin and features of state The individual and the state. Forms of government Organs of government (2) Meaning of basic terms. Concepts and principles (3) Analysis and evaluation

4 **Methodology** (1) No clear methodology Poor and inadequate tools. Aim of science to discover the truth Political scientists imitated natural scientists in the 19th century Researchers disillusioned by value-free methods Need of spiritual values in political science (2) Variety of methods and a variety of meanings UNESCO projects

(a) Philosophical Method Plato Mill and others *A priori* deductive and speculative Great and useful principles But likely to be too idealistic and impracticable Principles cannot be tested

(b) Historical Method Seeley Freeman and Laski Inductive method Why and how of state Past guide to the present Guides future Caution needed. Blind empiricism to be avoided

(c) Comparative Method Discovering resemblances and differences To be used with care Hasty generalisations to be avoided

(d) Observation Gather analyse and classify Political observer on the scene Qualified and competent observer needed

(e) Experimental Method Experiments under limitations possible Very useful to governments

(f) Statistical Method Collection of data Statistics good indices of conditions in state Useful to governments

(g) Biological Method State as an organism Method does not lead far

(h) Sociological Method State has qualities of individuals forming it

(i) Juridical Method Legal norms Non-legalistic factors ignored

(j) Psychological Method Study of individual psychology and motives

(k) Behavioural Approach Pragmatic empirical eclectic and positive Came to limelight in the 20th century Role of Wallas Bentley and Merriam Human behaviour centre of study Defects

Conclusion Harmonious combination of deductive and inductive methods which should supplement each other Philosophical values not to be overlooked

CHAPTER 3

POLITICAL SCIENCE AND OTHER SOCIAL SCIENCES

The relationship between political science and other social sciences has to be examined

A Relation of Political Science with Other Social Sciences

Political Science Not Isolated Being a humanistic science, political science has got to deal with other social sciences Political science studies man's political behaviour in association with other men as members of a common society This society is studied by different social sciences, one among which is political science The very fact that man's activities cannot be completely compartmentalised show that his political activities cannot be isolated from other activities Many problems of man including political problems are the common concern of all social sciences It has to be appreciated that man's political activity is a part of his general behaviour, and that the study of political science is only the study of one aspect of his integrated social life

Indebted to Other Social Sciences If man's political activity cannot be cut off completely from other activities, a study of political science cannot be made in complete isolation Political science touches the other social sciences at various points, and so we have to examine the relations of this social science with other social sciences for the proper understanding and appreciation of the different problems in political science "Familiarity with economics, anthropology, sociology, history, psychology and geography is essential to a proper understanding of the nature of political processes and to a genuine appreciation of the basic problems of political life"[1]

Unity of Science Strictly speaking, we cannot raise artificial barriers between sciences, as scientific knowledge is an integrated whole Knowledge is brought under different subjects for the sake

1 J S Roucek & Others *Introduction to Political Science* (1954) p 6

or convenience and specialisation The specialist cannot but realise the unity in science and the connection between one discipline and another What is done in one particular field of study affects the other fields as well New developments, for instance, in economics exert their influence on political science Different subjects or disciplines are, therefore, not isolated, but actually interlinked They are interdependent, and are indebted to one another "The beginner in any social study soon realises that there are no walls between sciences and that even the most minute researches in one may contribute importantly to the advancement of all"[1]

Political Science Not Self-contained Political science is not and cannot be a self-contained discipline Social sciences are inter-related and interdependent "We cannot think of economics, sociology, political science and cultural anthropology any more than of chemistry, mechanics, biology etc as a group of self-contained units, each clearly defined and independent of others We must rather think of science as a field of study which for practical purposes we have to divide between us, but which in principle is a whole, not a group of separate parts" Social sciences deal with various aspects of man's life

In this connection, a scholar's remarks may be noted "Political science, as one of the social sciences that deal with human relations, is a member of a rather quarrelsome family Psychology, sociology, anthropology, economics, history and human geography are other members Each of these like political science itself is not very sure of its place in the family or its future as a science None has a private room, and each has a habit of wearing the others' party dresses"[3]

B Political Science and Sociology

Let us briefly examine the relationship between political science and sociology

Scope of Sociology Wider Both sociology and political science deal with human activity But there is difference in their respective spheres Sociology is the basic social science and it has to conduct the study of the various aspects of man s social life It explains how these different aspects are intimately connected with one another The study of sociology pertains to all kinds of

1 Jacobsen & Lipman *Political Science* (1958) p 3
2 Gunnar Heckscher *Study of Comparative Government and Politics* (1957) p 46
3 Alfred De Grazia *The Elements of Political Science Political Behaviour* (1962) p 59

human associations and to all human "associated processes" It is proper to regard sociology as a general social science, and special social sciences like political science and economics as differentiations The field of political science is narrower than that of sociology, as it specialises only in the study of man's political life, political principles, political machinery and institutions

Man in Pre-political Condition The study of political science begins at a stage when man became a member of an organised *political* society The discipline does not primarily study human institutions of the pre-political period On the other hand, sociology commences its study at an earlier stage, when there was no state and government

Inter-Dependence Sociology and political science help each other in the study of man's activity in society As sociolo y deals also with human customs, traditions and usages in the pre-political stage, it helps political science by presenting facts which are use ful in knowing the origin of social laws and political institutions It is sociology that tells the political scientist the reasons of state formation In the same way, political science helps sociology by furnishing the details about state and government, which are essential in understanding sociological problems

C Political Science and History

Political science and history are also inter-related

Narrower Scope of Political Science History presents a record of man's achievements and failures in his quest of civili sation and culture It peeps into the past and gives a chronological record of human activity in various fields political, social, religious, economic, literary and artistic Political science restricts itself to the study of political theory and organisation Both the disciplines find themselves on common ground sometimes in the study of man, and they depend on each other By its very nature, political science is narrower in scope than history

Basis for Political Science As we have seen in Chapter 2, one of the methods of studying political science is historical The historian places at the disposal of the political investigator, a very useful fund of information about man's activities in the past in the various parts of the world Part of this fund of material is drawn by the student of political science in his investigation regarding the origin and the growth of political institutions Hence

it is said that history furnishes invaluable raw material to the political scientist In fact, it provides a basis for political study

Selecting Material The student of political science has to select his material carfully from historical facts and data, as all matter provided by history may not be quite germane to political science While it is true that the debt political science owes to history is great, it is only partially correct to say that history is past politics All history cannot be past politics, as much historical material does not deal with political principles and institutions and is irrelevant to the study of political science Historical material pertaining to art and learning may be of very little use to the political scientist

Inter-dependence The historian and the political scientist aught to realise their mutual dependence. History narrates events and furnishes information in a chronological order Political science culls matter from history for the study of state and government. "The science of politics is the gold deposited by the stream of history in the sands of time" (Lord Acton) History covers part of the ground of human activity in the pre-political stage, and like sociology enables the political researcher to study the origin of society and the formation of state and government The remaining background is furnished by subjects like anthropology, philosophy, ethics and psychology

The student of history also is indebted to political science Political science deals with political activity, a very important part of human activity, which the historian cannot ignore History cannot enrich itself, if it does not take cognizance of the emergence of state and political institutions and their role in the evolution of civilisation and culture As Seeley says, "Politics are vulgar when not liberalised by history, and history fades into mere literature when it loses sight of its relation to politics" The same writer has said in his famous words "History without political science has no fruit and political science without history has no root"

The inter-dependence of the two subjects is so great that they touch each other frequently "Separate them (history and politics) and the one becomes a cripple, if not a corpse and the other a will-of-the wisp" (Burgess) Here the view of R G Gettell has to be noted "While the political scientist is often inclined to view history as mere raw material for his purposes

and the historian tends to view political science as an emanation from history, the two studies are in fact contributory, complementary"[1]

D Political Science and Economics

We have to take note of the connection between political science and economics

Political Economy Political science and economics (the science of wealth) are both social sciences, which are closely connected In the past, economics which was regarded as a branch of political science was called political economy Today the two subjects have been separated and assigned different fields, but the fields are closely related In the promotion of human welfare, both the social sciences go hand in hand In a way, they can be regarded as the two sides of the same medal

Welfare Aim of Both The relationship between political science and economics became very intimate with the outbreak of the Industrial Revolution (1750–1850) The excessive concentration of wealth in the hands of a few industrial capitalists and the merciless exploitation of the workers and the poor and the weak sections of society made the state regulate industry, finance, trade and commerce through legislation This shows that the activities of the state came to be influenced by economic conditions In modern times, thanks to the rise of forces of liberalism and enlightenment, the energies of the political scientist and economist are bent for the good of society We speak of a welfare state rather than in terms of a police state The new outlook of the welfare state brings together political thinkers, administrators and economists, who plan in collaboration in the larger interests of the state The welfare of the people in a state would not be realised if economic principles are divorced from political principles, and if economic activities are not regulated by the state

Economic Background of Political Forces The fact that political movements have sometimes an economic background indicates the intimacy between political science and economics The form of government changed in Russia, China and other countries owing to revolutions having an economic background The American Revolution and the birth of the United States of America had much to do with economic causes Political power is sought to gain economic control, which may be utilised either to promote

1 *Political Science* (1956) p 11

economic welfare or to oppress the masses No government worth the name can afford to remain quiet without regulating the economic forces which are at work Governments many a time act for the sake of upholding economic principles and so also critics oppose governmental policies and measures on economic grounds "Thus tariff laws and trade restrictive acts generally are favoured or opposed largely on economic grounds and to a great extent the whole question of the relation between government and liberty is at the bottom of an economic problem "[1] In every country, the problem ot unemployment taxes the minds of the rulers This again is a problem which illustrates the intimacy between politics and economics, as both political and economic factors are involved in it Similarly, *laissez faire* or free trade, taxation, labour legislation, banking and currency regulation are further examples of combination of politics and economics

Democracy in Economic Field In this age of democracy, it si an accepted principle that democracy has no meaning if a few continue to be rich, when the masses remain poor Democracy became significant and meaningful only when it penetrates into the economic field In the economically backward countries political democracy goes ahead leaving economic democracy in the lurch People do not enjoy the fruits of democracy fully without the necessary economic changes thus showing the dependence of political science on economics "The extensive nationalisation of industry in Great Britain and the establishment of a communist state in Russia are obvious examples of close relationship between present day politics and economics "[2] The acceptance of the principle of democratic socialism in India in 1955 and the nationalisation of 14 major banks in India in 1969 show the link between political science and economics

E Political Science and Ethics

Political science and ethics are interdependent

Ethical Values Needed Both political science and ethics are social sciences One is the science of the state and the other of morality The state was organised for law and order, for the maintenance of peace, for protecting the weak against the strong and for promoting the welfare of the people In the state, ethical principles and human values have to be given a place due to them

1 J W Garner *Political Science & Government* (1955) p 26
2 R. G Gettell *Political Science* (1956) p 11

"The political ideal cannot be divorced from the ethical ideal We cannot conceive a perfect state where wrong ethical principles prevail The ethical and the political in this case coincide The science of ethics is therefore prior to political science"[1]

Plato, the Greek philosopher established an intimate connection between politics and ethics According to him, membership of the state is necessary for leading a good and virtuous life In his *Republic* Plato spoke of the state aiming at the establishment of justice or moral excellence Aristotle also gave much importance to ethics and regarded it as part of politics To Hegel, the state is the highest expression of morality

Compromise between Law and Morality In the course of ages, society evolved several moral values and principles These are accepted and followed by the majority of people and their violation is looked down upon by society The state should uphold morality, but it is neither desirable nor feasible to regulate the moral conduct of the people by legislation Though the state should firmly suppress immorality, when it threatens to poison society, it should not try to make people good and virtuous by legislation Though political science should not be made a handmaid of ethics, political principles and moral values have to be reasonably reconciled The concern of the people and of government to uphold morality and human values imperceptibly reveals itself in legislation The law-giver cannot ignore the moral traditions of his country and introduce legislation which goes against the widely accepted ethical concepts

Gandhian Combination of Politics and Ethics Mahatma Gandhi elevated politics by infusing the moral spirit into it He proclaimed "What is morally wrong cannot be politically right" He tried to blend political principles with ethical values and said that the end cannot justify the means He did not compromise on the principle that both ends and means should always be good He lived and died as an apostle of love, truth and non-violence

Machiavelli Machiavelli separated political principles from morality and freed the prince from ethical obligations His views have been criticised, as ths state cannot go against ethics.

F Political Science and Psychology

The relationship between political science and psychology has to be noted

1 R. N Gilchrist *Principles of Political Science* (1937) p 13

Psychology and Insight into Politics "Psychology is the science of consciousness and deals with the rational and irrational aspects of the human mind" As human beings figure in the study of political science, it has to be taken for granted that psychology is intimately connected with the subject In the evolution of political institutions, we note the influence of psychological factors Human psychology provides an insight into the political habits of man. The political scientist, the politician, the administrator and the statesman have to give due weight to human sentiments and emotions "Political interests and political parties are to a great extent psychological in nature and the traditions and ideals of a people are potent forces in political life"[1]

Importance of Psychological Factor Political leaders and rulers in a country should give due weight to the individual and mass psychology In the general elections, leaders tap the psychological factor for support Rulers should see that generally the governmental measures do not go against the people's sentiments and emotions Psychological factors account for much difference between two peoples as indicated by the types of government and political institutions they evolve Legislative measures and institutions which can flourish very well in a country like England may not be popular in another country like India Hitler had attached great importance to psychology and in his bid to seize power he exploited the psychological factor to the fullest extent. He played very well on the "emotion, love, attachment, hatred and prejudices" of Germans In India, Curzon became very unpopular owing to several factors, one of which was psychological. He went against human psychology and particularly in his policy of partition of Bengal he betrayed a lamentable ignorance of the psychology of the people of Bengal, who agitated for the annulment of partition In the eighteenth century, the Bourbon King Louis XVI of France committed a great mistake in not realising the psychology of the masses on the eve of the French Revolution

G Political Science and Anthropology

The connection between political science and anthropology should be noted

Anthropology Helps Political Science Political science is related to anthropology Both are social sciences One studies political institutions and the other studies physical nature, racial

1 R. G Gettell *Political Science* (1956) p 11

features, social relations, customs and traditions and influence of environment Like sociology, anthropology studies man who had not formed state or even society Anthropology throws much light on the conditions of the primitive man and helps the political scientist to study the origin and development of state

Misuse of Anthropology The factors explained by anthropology in the evolution of state and nationhood are no doubt useful, but it is dangerous to attach too much importance to matters like race Race maniacs in modern times in countries like Germany gave a new twist to the theory of race Nazism and totalitarianism appeared in Hitlerite Germany in all their cruelty and ugliness with the theory of Nordic superiority in the background False race theory degraded and humiliated the Jews and this also led to the mass murders of Jews in Germany Racial prejudice in Africa and in other continents can also be attributed to baseless race theories

H Political Science and Geography

The relationship between political science and geography has to be noted

Geopolitics Geography is the "science of the earth's surface, form, physical features, natural and political divisions, climate, production, population etc "[1] It enables the student of political science to know the influence of environment on political institutions Applied political geography called geopolitics furnishes useful information in the study of the origin and growth of political institutions The historical development and evolution of political institutions of a country can be easily linked with the nature of the soil, mountains, plains, rivers and insularity

Recognition of Geographical Factor The role of geography in the evolution of political institutions was recognised by political thinkers like Aristotle even in ancient times In modern times, the credit of noting the relation between the two subjects goes to Bodin and scholars like Rousseau, Montesquieu and Buckle took note of the geographical factor and its role in the construction of political institutions While geography is to be given the importance due to it it is incorrect to read too much in the influence of geographical features

Examples of Geographical Influence A few instances will enable us to assess the part played by geography in politics An-

1 *The Concise Oxford Dictionary*

cient Greece could not develop a large territorial state, as its su was small and it was broken by rivers and mountains This faci litated the growth of city states which developed a parochial outlook England developed her political institutions in a particular way owing to her peculiar insular position In international relations a topic coming under the purview of politics, we find the geographical factor a powerful cause in international bickerings Serbia, whose name is prominently associated with World War I was dissatisfied in the present century, as she felt she was *landlocked* The efforts for the creation of a separate state of Albania by powers like Austria which would prevent Serbia from having a seaboard, were viewed by the Serbs with great resentment and suspicion Russia became aggressive in the time of Peter and Catherine, as they wanted "windows" near the sea After partition, the waters of the Indus became the bone of contention between India and Pakistan

I Political Science and Philosophy

Political science and philosophy also depend on each other

Philosophy in Politics Philosophy represents the love of wisdom and "the knowledge of causes and laws of all things" It helps to understand the "why" and "how" in political science As a social science, it is connected with political science The great philosophers of Greece like Socrates, Plato and Aristotle saw in political institutions scope for the realisation of philosophical principles In fact, they brought politics under the control of philosophy In modern times the two disciplines were separated Yet we cannot have a science of government without principles of philosophy The state as an organisation serving human ends remains highly indebted to philosophy In the books of eminent writers like Hegel, Spencer and Bosanquet, the relationship between the two subjects is clearly brought out

J Political Science and Statistics

Value of Statistical Data Statistics is a subject which treats numerical facts in a systematic manner The data collected by the statistician are useful to the politician, administrator and statesman In our complex society in modern times statistics is highly useful In introducing political, social and economic reforms figures are of great use to governments "Statistics, it has been said, contributes to the study of political and social institutions somewhat as microscopy contributes to pathology "[1] In the same way

[1] J W Garner *Political Science & Government* (1955) p 32

statistical figures help the critic of the government to know the balance sheet of government activity In this age of state regulation and widespread planning, the value of statistics is indeed very great No plan of a scientific nature can succeed without a statistical basis

K Political Science and Jurisprudence

Law-making Political science deals with state and government, and jurisprudence is the science of law No state can function without making law and enforcing it Thus the connection between the two social sciences is very clear Both are inter-related and inter-dependent The scope of jurisprudence is much narrower than that of political science, and in a way it is a branch of political science But in this age of science and specialisation, the two disciplines are studied separately

L Political Science and Biology

State and Organism Similarity between the state and a biological organism has been struck by political thinkers from the ancient times Hence relationship is established between political science and biology In modern times, Herbert Spencer became the exponent of the biological theory This theory is defective and has been criticised

M Political Science and Religion

Mixture of Religion and Politics In ancient and medieval times, religion and politics were mixed In ancient Egypt, Sumeria, India and other countries the two went together Similarly, in medieval Europe, states were Christian In the medieval Islamic empire, there was theocracy

Rise of Secularism The modern times saw the growth of tolerance and secularism In advanced countries, it is felt that religion is a personal affair, and it should not be allowed to interfere in politics In England though the monarch should be a Protestant and not a Roman Catholic, politics has been separated from religion India is a secular state The Constitution of India (1950) includes a list of seven justiciable Fundamental Rights, one of which is Right to Freedom of Religion The state does not have an official religion and it gives toleration to all sects without supporting or antagonising any of them The rise of secularism has been welcomed by all enlightened people in the world, in which much fanaticism has been practised

Conclusion The political scientist realises where and how the various social sciences are linked with political science. A knowledge of the other social sciences is helpful to the political researcher

MAIN POINTS

1 **PS and other Social Sciences** All social sciences including PS deal with man PS not isolated PS indebted to other sciences and not self-contained.

2 **PS and Sociology** Sociology general social science PS dealing with man s political behaviour indebted to sociology Interdependence of the subjects.

3 **PS and History** History provides basis for PS whose scope is narrower than that of history Careful selection of historical material Interdependence.

4 **PS and Economics** In the past political economy (economics) was branch of PS Now PS and economics are separate subjects Modern state needs both PS and economics Hence intimate relationship Political forces have economic background

5 **PS and Ethics** PS not to be handmaid of ethics But ethical values essential.

6 **PS and Psychology** Both interrelated Influence of psychological factors in political institutions

7 **PS and Anthropology** Anthropology useful to PS It throws light on man in pre-political and pre-social stages

8 **PS and Geography** Importance of geo-politics Influence of geographical factor

9 **PS and Philosophy** PS linked with philosophy which stands for knowledge of causes and laws of things PS would be poor without philosophy 'Why and 'how of things explained by philosopher

10 **PS and Statistics** PS highly indebted to statistical data

11 **PS and Jurisprudence** Both intimately connected PS depends on jurisprudence the science of law

12 **PS and Biology** : Herbert Spencer s theory that state is like a biological organism

13 **PS and Religion** Theocratic states Separation of religion from politics

Section II

STATE, GOVERNMENT ASSOCIATION AND NATION

CHAPTER 4 STATE AND ITS NATURE

The meaning of the state, the essential attributes of the state, the difference between state and association, and the theories of the nature of the state are explained in this chapter

A Definition and Meaning

Need of Society and State Man is a social animal, as stated by the Greek philosopher Aristotle about 2,300 years ago He cannot live in isolation, he has many needs, and in association with other men, he seeks fulfilment of his aims and objectives At a certain stage of human civilisation, men and women organized themselves into a society and agreed to follow certain rules of conduct and obey an authority Men need mutual help and sympathy, and therefore they live as members of a common society Society is a term which designates the whole net-work of relations among members Within this broad social frame work of many types of relationships, various groups or associations like sports clubs, dramatic associations, chambers of commerce and study circles are formed In the modern civilised world, we take it for granted that all men and women are members of society

In the same way, we also take it for granted that all people living within the boundaries of a country are members of an organisation called the *state* The need of the state arises, because

few bad and mischievous men go against the accepted rules of behaviour in society and harm the interests of others To deal with such bad elements of society, to bring the anti-social people to book, to protect the weak against the strong and to uphold peace and order, a *political* organisation known as state is necessary When society is organised on a political basis in a given territory, and when human beings come together for the common purpose of having a common code of behaviour or for respecting a common set of laws the state is formed In short, it may be said that the state is a politically organised society in a certain territory

Difference between State and Society It is necessary to note the following points of difference between society and state

(1) Society is a whole network of human relations, whereas the state is a *politically* organised society in a definite territory A society organised for law is state

(2) Society was set up earlier than the state

(3) Territory is an essential attribute of the state, on the other hand, society is not limited by territorial frontiers

(4) The rules, conventions, customs and traditions evolved by society have to be respected by individuals, but if they are broken, no punishment (as the state gives) is meted out On the other hand, in the case of the state, all laws have to be obeyed and disobedience will be visited by a penalty Unlike society, state has coercive power

(5) Society is wider than the state The state exists within the frame work of society

(6) The state acts through its machinery known as government, which wields power Society does not and cannot have such a machinery

Totalitarianism Ancient Greeks drew no line of difference between society and state In modern totalitarian states governed by dictators like Hitler and Mussolini, such distinction is not recognised In a totalitarian state, all aspects of human life are brought under the control of government, but on the other hand, in a democratic state the individual has freedom, and distinction between society and state is clearly maintained

Definition of State *Many definitions of state* have been given These are likely to confuse the beginner, particularly when they do not agree with one another Therefore only a few important ones giving the clear picture of the state may be noted An

examination of the numerous definitions shows that each definition lays emphasis on the essential attributes or elements of the state

The Greek thinker Aristotle defines the state as "a union of families and villages having for its end a perfect and self-sufficing life by which we mean a happy and honourable life" According to Aristotle, self-sufficiency (more in the ethical sense than in the economic sense) could be realized by human beings neither in the family nor in the village a higher form of organization was necessary This was the city state Aristotle's definition is not precise, and it cannot satisfy the modern political scientist Moreover, in Aristotle s time distinction between society and state had not been made

Phillimore, the English lawyer says that the state is "a people permanently occupying a fixed territory, bound together by common laws, habits and customs into one body politic, exercising through the medium of an organized government independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into all international relations with the communities of the globe" Here Phillimore gives a very clear picture of the state He speaks of (1) people living in a fixed territory, (2) common laws, and (3) sovereignty in internal and external affairs

The definitions given by Bluntschli and Woodrow Wilson are brief and pithy "The state is the politically organised people of a definite territory" (Bluntschli) The state "is the people organised for law within a definite territory" (Wilson) These definitions do not give a clear image of the state, and are incomplete

Garner gives a very clear definition "If one more definition may be added to this long list, I would say the state as a concept of political science and public law is a community of persons more or less numerous, permanently occupying a definite portion of territory independent or nearly so of external control, and possessing an organized government to which the great body of inhabitants render habitual obedience" Garner mentions (1) many persons permanently occupying a definite portion of territory (2) complete or nearly complete independence and (3) an organised government

Laski says 'By a state I mean a society of this kind which is integrated by possessing a coercive authority, legally supreme over any individual or group which is part of the society An

examination of any national society will always reveal within its boundaries not only individuals, but also associations of men grouped together to promote all kinds of objects, religious, economic, cultural, political, in which they are interested Such a society is a state when the way of life to which both individuals and associations must conform is defined by a coercive authority binding upon them all "[1]

Sovereignty Soul of Statehood The most important element of state is sovereignty, the other elements are population, territory and government Sovereignty is the soul of statehood, and a 'state' which does not have this is not full-fledged Therefore, the Indian States in the British Period were not states in the same sense in which states like the United States of America are while the former were under British suzerainty, the latter is a full-fledged state Similarly, the State of Maharashtra cannot be put on a level with a state like Switzerland Maharashtra is only one of the units or part of the Union of States, which is called Bharat or India in the Constitution Maharashtra may have to take orders from the Union Government according to the provisions of the Constitution, while Switzerland need not take orders from any power, local or foreign The League of Nations and the United Nations Organisation cannot be regarded as states, as they do not have sovereignty A state like the USSR can issue any order to a citizen, and this cannot be challenged as the USSR has sovereignty on the other hand, the UNO cannot issue such an order on any state The UNO is not a super-state or state, as it lacks sovereignty

Idea and Concept of the State On a philosophical basis a difference is made between the idea and the concept of the state As Burgess puts it "The idea of the state is the state perfect and complete The concept of the state is the state developing and approaching perfection" This distinction may not be of much practical use

State in Abstract and Concrete Terms The state can be spoken of in abstract and concrete terms In abstract terms, the state is an organisation with a legal personality, which can enter into relations with similar such organisations (states) in the international field In concrete terms, the state is the people, the political organisation of the land

1 *The State in Theory and Practice* (1967) p 21

B The Essential Elements of State

The state has four essential elements or attributes (1) Population, (2) Territory, (3) Government, and (4) Sovereignty

1 Population

Population according to Resources Population is essential for state, and there can be no state without human beings But no definite figure can be fixed regarding the size of the population Population, however, should not be too small For instance, one family or a hundred people cannot make a state

Greek thinkers believed that the population should neither be too small nor too big Their thinking was influenced by city states like Athens and Sparta According to Plato, the ideal number would be 5040 Aristotle struck a *via media* between too small a number and too big a number He stated that if few persons cannot make a good state, so also a hundred thousand cannot Rousseau was in favour of 10,000 It is well nigh impossible to fix a definite number as optimum for states in general As no two states can be exactly like each other, no general standard can be prescribed However it may be said that size of population depends upon the area and the resources of the state A state should have only that size of population, which can be conveniently supported Both overpopulation and underpopulation may become serious problems to states In Nazi Germany and Fascist Italy, gifts or bounties were given to mothers of many children On the contrary, the rapidly rising population is a challenge to the resources of many countries like India today

A great contrast can be noted in the population figures of the modern states While China and India have about 700 million and 490 million respectively, the state of Panama has a population of a few lakhs San Marino has a population of about fourteen thousand

Type of People The progress of a state depends upon the type of people living in it While half-starved, illiterate and ignorant people are liabilities to the state, virile, educated and intelligent people are great assets Taking the population factor into consideration, we find a great difference between highly advanced countries like the USA and England and under-developed countries in Africa and Asia

2 Territory

Frontiers Necessary The word 'territory' covers the surface of the land within well-defined boundaries, the sub-soil, lakes

and rivers and also air space above the land Like population, territory is also quite essential, though some authors like Sir John Seeley do not think so

People essentially need territory to live and organise themselves politically Mere political unity and desire to form a state are not enough A good example is of the Jews The Jews could not establish a state of their own before 1948, because they did not have a definite territory of their own to settle down When Palestine was partitioned between the Jews and the Arabs, the Jews got a slice of territory, which they could call their own Obviously the Jewish soul got the body in the form of Israel Territory is necessary for citizenship and for marking the clear frontiers of the jurisdiction of a particular state For instance, the jurisdiction of the Government of India does not extend beyond the frontiers of India, and normally persons living outside the boundaries of India cannot be regarded as citizens of India The territory of a state enables the people constituting it to know the boundaries of the land to which they belong, which they should love and to which they should be loyal Without clearly marked out territorial limits, there would be endless disputes between states

Size of Territory As in the case of population, in the case of the size of the state too, no definite standard as such can be fixed A country even with a very small area can be regarded as state if it has all the essential attributes, its small size does not bar it from being called a state Even San Marino, whose area is as low as 38 square miles and Monaco, whose area is 8 square miles are states The size of ancient city states of Greece was small Athens, the School of Hellas (Greece) which was the most important city state and which contributed much to the culture and civilization of the world was a small city state Conditions radically changed in the course of centuries, and the Athenian ideal regarding the size of the territory and population cannot hold good today The optimum size of territory can be determined only with reference to the population, the resources and other factors Along with the size of territory other factors have also to be considered Gilchrist points out "There are many other elements connected with territory which make for greatness climate, the temperament of the people, geographical configuration, and natural resources are all important factors in deciding both the size and the greatness of a state"[1]

1 R N Gilchrist *Principles of Political Science* (1938) p 19

Age of Large States The modern age is of large territorial states The large size of a state enables it to have adequate resources to maintain a good standard of living and to promote the welfare of the people in general From the defence point of view also, a large size is favoured However, it should be noted that size alone does not make a state strong or prosperous A small country like England became a world power, whereas for centuries together in the medieval and modern periods, India many times bigger than England remained in the background As a rule, large size of territory is an asset to the state Large states like the USA (area 3,570,982 square miles) and the USSR (8,336,510 square miles) became Super Powers, while states like San Marino, Gautamela and Monaco are tiny and insignificant and their very existence is not widely known Small states in the modern world are in a precarious position In the context of international power politics and threat of large territorial states armed with great industrial power and nuclear weapons, the position of petty states is very unenviable Very small states are dictated by circumstances to fall in line with Big Powers and be their satellites Though technically sovereign, their independence is hedged in by conditions created by the giant states It is sometimes said in favour of small states that democracy has better chance of success in them than in the big ones But the position of small democracies is vulnerable At the same time, it must be noted that democracy has succeeded well in big territorial states like the USA where federalism, decentralisation of power and local self-governing institutions have found great scope From the economic point of view also, much can be said in favour of big states Very small states are economically poor in comparison with the big ones, and the former may not be in a position to have the advantages of modern methods of production to the extent to which the latter can There is no doubt that whatever advantages small states enjoy are more than counterbalanced by glaring disadvantages

3 Government

Agency of State The state requires an agency or instrument through which it can express itself and enforce its will This instrument or machinery is called government Without government, it will not be possible to carry out the wishes of the state and realize the objectives for which the state is formed Maintaining law and order, punishing the law-breakers, protecting

law-abiding and promoting the general welfare of the people are the duties assigned to government

Difference between State and Government Many a time, the terms 'state' and 'government' are employed in a loose sense The word 'state' is used to mean government For instance, when people speak about 'state order' or 'state regulation', they really mean government order or government regulation It has to be noted that state and government are not synonymous, and the difference between them has to be clearly noted

(1) State stands for the whole community, which is politically organised, whereas government stands for a group of persons

(2) Sovereignty or the supreme controlling and coercing power lies in state, and it is exercised through its instrument that is government

(3) State is an abstract concept, on the other hand, government can be understood in concrete terms

(4) State is permanent, government is not Governments change or fall according to the results of elections or some other cause, but state enjoys continuity State as an independent entity disappears, when it loses its sovereignty

As far as the ordinary man is concerned, there is no need to observe the distinction Here Laski makes a significant observation "Yet it must be said at once that the distinction between state and government is rather one of theoretical interest than of practical significance For every act of state that we encounter is, in truth, a governmental act The will of the state is in its laws, but it is the government which gives substance and effect to their content "[1]

4 Sovereignty

Supreme Power to Order and Punish Sovereignty is the most important attribute of state This is the supreme power to coerce and punish all individuals or groups of individuals within the state Sovereignty, which puts the state above all other associations clearly shows the basic difference between them Till August 15 1947, India was not a full-fledged state, as it was under foreign domination, and as the powers of the Central Legislature were subject to the control of the British Government Since then, India has been fully sovereign, and the law passed by the Indian

1 *The State in Theory and Practice* (1967) p 25

Parliament has finality about it The sovereignty of a state is in the internal and external fields Internally it is supreme, and all individuals and associations have to obey its orders and not the orders of any other organization, externally it is independent and does not take orders from any foreign state or power

Comprehensiveness, Exclusiveness and Permanence Sovereignty can be regarded as the soul of the state, and when deprived of it, the state is reduced to the position of other organizations or associations "Prof Burgess gives all comprehensiveness, exclusiveness and permanence as peculiar characterstics of the state, with sovereignity as the most essential principle All comprehensiveness means that the state embraces all persons and associations of persons within the given territory Exclusiveness means that there can be one and only one organization of the state"[1]

International Recognition Owing to the destruction of time and distance, the world has become "small" and no state is completely isolated from the rest of the world A state becomes a state not only by virtue of having all the four attributes, but by being recognized in the world as a state However, the failure of recognition of a certain state by one or two or a few states in the world does not deprive it of its statehood Israel continues to be a state, even though some states do not recognise it

C State and Association

The following are the most important differences between state and association

1 **State Membership Compulsory** All persons living within the territorial limits of a state are members of the state and have to obey the laws of the state and remain loyal to it Whether they like it or not, membership of state is compulsory but that of an association is voluntary Nobody is ever forced to become the member of a library or sports-club, membership of associations is voluntary

2 **State is Permanent** A state has a permanent existence, whereas an association is temporary An association may come to a close when its members decide to wind it up, it may cease to exist for want of membership or for any other reason A state never comes to a close like this in spite of a change in government

1 Ibid p 22

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As far as the ordinary man is concerned, there is no need to observe the distinction Here Laski makes a significant observation "Yet it must be said at once that the distinction between state and government is rather one of theoretical interest than of practical significance For every act of state that we encounter is, in truth, a governmental act The will of the state is in its laws, but it is the government which gives substance and effect to their content "[1]

4 Sovereignty

Supreme Power to Order and Punish Sovereignty is the most important attribute of state This is the supreme power to coerce and punish all individuals or groups of individuals within the state Sovereignty, which puts the state above all other associations clearly shows the basic difference between them Till August 15 1947, India was not a full-fledged state as it was under foreign domination, and as the powers of the Central Legislature were subject to the control of the British Government Since then, India has been fully sovereign and the law passed by the Indian

1 *The State in Theory and Practice* (1967) p 25

Parliament has finality about it The sovereignty of a state is in the internal and external fields Internally it is supreme, and all individuals and associations have to obey its orders and not the orders of any other organization externally it is independent and does not take orders from any foreign state or power

Comprehensiveness, Exclusiveness and Permanence Sovereignty can be regarded as the soul of the state, and when deprived of it, the state is reduced to the position of other organizations or associations "Prof Burgess gives all comprehensive ness, exclusiveness and permanence as peculiar characterstics of the state, with sovereignity as the most essential principle All comprehensiveness means that the state embraces all persons and associations of persons within the given territory Exclusiveness means that there can be one and only one organization of the state"[1]

International Recognition Owing to the destruction of time and distance, the world has become "small" and no state is completely isolated from the rest of the world A state becomes *a state not only by virtue of having all the four attributes*, but by being recognised in the world as a state However, the failure of recognition of a certain state by one or two or a few states in the world does not deprive it of its statehood Israel continues to be a state, even though some states do not recognise it

C State and Association

The following are the most important differences between state and association

1 **State Membership Compulsory** All persons living within *the territorial limits of a state are members of the state and have* to obey the laws of the state and remain loyal to it Whether they like it or not, membership of state is compulsory but that of an association is *voluntary Nobody is ever forced to become the* member of a library or sports-club, membership of associations is voluntary

2 **State is Permanent** A state has a permanent existence, whereas an association is temporary An association may come to a close when its members decide to wind it up it may cease to exist for want of membership or for any other reason A state never comes to a close like this in spite of a change in government

1 Ibid p 22

3 Territorial Limits The jurisdiction of a state is clearly marked by the territorial limits beyond which the writs of the state cannot run Normally persons living outside the territorial limits of the state are not its members On the other hand the membership of an association can go beyond territorial frontiers In fact, certain associations may have members all over the world

4 Coercive Power The state possesses supreme power to control, order and punish Laws of state have to be obeyed by all and persons who violate them can be punished An association does not have sovereignty or coercive power, though it frames its own rules and regulations for its smooth working Violation of these rules may at the most end in the expulsion of the member concerned from the association Associations themselves like citizens exist within the framework of the state, subject to the control of the state and have to obey the laws the state The state can order an association to close down can make law for starting new ones A state is competent to arrest a person impose a fine or jail sentence or even condemn him to death if found guilty of murder but no association is able to wield such power

5 Scope of State Activity Wide An association is started to achieve a particular end which may be commercial, cultural or literary Thus its scope is limited But the scope of the activities of the state is very vide Particularly in the modern times when the idea of the police state has been discredited and the concept of the welfare state is upheld the range of state activities is becoming wider and wider Modern progressive states plan in a big way to improve the condition of the people

D State, Community and Institutions

Society Association and Community Society is a large network of human relationship Laski says ' By society I mean a group of human beings living together a working together for the satisfaction of their l wan ll organized society has within itself grou om y a community I mean a complex of o a number of human beings living t cial rela ship bound together by y cha stock of conv cu ciou some extent s ou

1 The State in

2 G D H

persons becomes a community, when the people constituting it (group) evolve common traditions, customs, conventions, manners, religious beliefs and feeling Among the various factors that bind the members of a community, one or two may be of supreme significance For instance, in India feelings of religion and caste bind the people of a community more than any other factor The people of a community may belong to a certain locality, village, town, province or state, but belonging to the locality is not the most important factor What is of importance is the actual community feeling, though its members may be scattered over several localities A state is a politically organised society, an association, as mentioned elsewhere, is organised for specific purposes but a community is not organised "According to Mac Iver the essential difference between a community and an association is that an association is organised and a community is not A community is defined as "an area of common life, village or town or district or country or even wider area" The common life "must have some characteristics of its own such that the frontiers of the area have some meaning" The inhabitants of the area must resemble each other"[1]

Examples of Community The term 'community' may include a handful of people or millions The family, for instance, whose members are held together by blood ties and emotions is a community If the family as a community is at one extreme end as the smallest, the people of the whole world in a very broad sense constitute a community, which is the largest at the other extreme end In between the family and the world community, there are thousands of communities For instance, the people of India as a nation make a community Then at the lower level there are groups which, we call Hindus, Muslims, Parsis, Sikhs and Christians, these groups have religion as the chief binding factor Then there are groups, which we call Maharashtrians, Gujaratis, Punjabis, Bengalis and Tamilians having language as the unifying factor

Institutions It is also necessary to know the meaning of 'institutions' Lieber, an American political thinker of the nineteenth century, defines institutions as "a system or body of usages, laws or regulations of extensive and recurring operation containing within itself an organism by which it effects its own independent action,

1 J D Mabbot *The State and the Citizen* (1958) p 81

continuance and generally its own further development"[1] Institutions depend upon the general acceptance of and recognition by the members of a community, these get the backing of custom or tradition, but may or may not be sanctioned by law "Thus family property, slavery, totemism, exogamy are bodies of usages held together by common principles of social life This meaning of institution is supported by the usage of the English language and of English jurisprudence"[2] The term 'institution' is sometimes used to indicate not only ideas and usages, but actual human groups like army, navy, church and state In a sense, therefore, an institution can also be regarded as an instrument or structure or framework of an association As G D H Cole aptly puts it, "an idea is not an institution merely because it is widely or generally held or accepted It is an institution only if, in addition to being so accepted, it is embodied in some external form of social structure or communal custom, either in an association or in some actual form of social behaviour"[3]

Institutions should be regarded as means to certain ends and not as ends in themselves All institutions are not good For instance, slavery as an institution is a curse, while the institution of family is good and necessary

E Theories of the Nature of the State

There is no unanimity of opinion regarding the nature of the state, and hence there are different theories

1 The Juristic Theory

State as Legal a Person The Juristic Theory, which originated in the nineteenth century regards the state as a legal person having a distinct personality and will of its own The state as a legal person expresses itself through words and acts, and creates and possesses rights, which are quite distinct from those of the people constituting it As a legal personality, it can sue, and can be sued "States own property, direct economic enterprises appear as plaintiffs in civil and criminal cases, and permit themselves to be sued in the courts in certain matters"[4] Quite unlike the temporary interests of the people forming the state, the state as a legal entity has got perma

1 Quoted by M Ruthnaswamy in *The Making of the Modern State* (1931) p 164

2 Ibid p 164

3 *Social Theory* (1930) p 42

4 R G Gettel *Political Science* (1956) p 110

nent interests This is because individuals die, while the state continues to exist permanently As a legal person, the state speaks and acts in various ways, possesses wealth, and regards itself as the custodian of the interests of the existing people and of the people of the succeeding generations

Value This theory is of some value, as it expresses a certain point of view about the state

Unreal The Juristic Theory has been criticised by writers like Duguit as "a pure mental concept devoid of all positive reality" Like Duguit, Le Fur also criticises the theory "The idea of a fictitious person is in itself, he says, easy to understand, but what is not easy to explain is the idea that a fictitious person may be invested with rights of power The state is not a fiction, it is a real fact, the most important of all social fact"[1] The legal person as envisaged by jurists is imaginary and not real, to regard the state, a real political organisation, as a fictitious personality sounds preposterous

Objections Unexplained The theory explains only the jurist's point of view The real nature of the state as an organisation having heavy obligations towards the individual is not explained by the theory "The chief demerit of the theory lies in its comparative failure to offer a satisfactory explanation of political obligation and to lay down a political programme"

2 The Organismic Theory

State as a Living Organism Unlike the Juristic Theory, the Organic or Organismic Theory is very old According to the theory the state is considered as a real living organism The analogy between the individual and the state is found in the political thought of Plato Similarly, it is seen in the works of Aristotle and the Roman writer Cicero In the middle ages, it continued in the thought of St Thomas Aquinas and Marsiglio It entered the modern times through the works of Hobbes and Rousseau The theory found good champions in German political thinkers like Schäffle and Bluntschli In England, the theory found a very powerful exponent in Herbert Spencer The views of the ancient and medieval writers and of the modern ones are not identical To the former, the state is like an organism, while the latter say that the state is an organism

1 J W Garner *Political Science and Government* (1955) p 189

State like an Organism According to the ancient and medieval thinkers, the state is like an organism, and there is complete interdependence among individuals constituting it The state does not merely mean a sum total of the number of individuals, but a complete unity, which can be found in a living organism (like a human being or an animal) The individuals in the state function in harmony (and none of them can be isolated) just as the eyes, ears, bones, muscles, nerves and blood fully cooperate with one another as parts of the same living organism The state has no meaning without individuals, and the individuals have no meaningful role when divorced from the state As particular functions are assigned to different organs in a body in the state too different departments are charged with the performance of special types of functions

State an Individual The state in the nineteenth century came to be spoken in terms of "person" and "individual" The expression used by the thinkers made the state an actual individual instead of comparing it to a person The emphasis was literal and not metaphorical, as in the case of the ancient and medieval thinkers Herbert Spencer in England became a very staunch advocate of the Organismic Theory In Germany, Bluntschli made a very conspicuous statement on the state as an organism "As an oil painting is something more than a combination of drops of oil, as a statue is something more than a combination of marble particles, as a man is something more than a mere quantity of cells and blood corpuscles so the nation is something more than a mere aggregation of citizens and the state something more than a mere collection of external regulations " In the nineteenth century, the influence of the Theory of Evolution was great on the minds of political scientists, who conceived of the principle that the state is an organism (and not like an organism)

Spencer's Organismic Theory Spencer's Organismic Theory can be summarised as follows

(1) "Society he conceived to be a natural organism differing in no essential principles from other biological organisms Both the animal and social bodies he affirmed, begin as germs, undergo a process of continuous growth the parts, as they develop becoming more and more unlike, and exhibiting greater complexity of structure "

(2) Structural similarity was struck by Spencer between society and a living organism Society has sustaining, distributing and r

gulating systems just as a living organism has mouth, gullet, stomach and intestines As the brain in the animal body controls and regulates the functions in the body, the state controls the individuals, and regulates their lives through the productive system, the transport system, the police system and the central executive

(3) The state is made of individuals as a body is composed of cells Individuals in the state die and their places are taken by new ones, in the same way in which cells in a body are destroyed and new cells created The death of one or few cells does not lead to the death of the whole body, so also the death of a few individuals does not mean the destruction of the state

(4) The different parts and organs in a living body are mutually dependent, in the same manner, the various groups and classes in a state require co-operation of one another The body suffers, if any of its parts or organs gets diseased or paralysed, so also, in a state, the weakness of a group or class leads to the weakening of the state

Difference between Body and Society Though Spencer went very far in drawing parallelism between a living organism and the state, he did not fail to note the following significant and real differences between the two

(1) According to Spencer, the units of an organism are bound together in close contact, whereas the units of a social body are free and widely s attered [1]

(2) In the case of an animal, consciousness is centralised at one place, that is, the brain, but in the case of the social organism, consciousness is spread out everywhere This difference marked by Spencer is of great importance, as it formed the basis of his individualistic political philosophy It is curious that Herbert Spencer, the eloquent advocate of the Organismic Theory should also become the builder of his individualistic political philosophy

Evaluation of the Organismic Theory

The Organismic Theory can be criticised on certain grounds

1 Cannot Carry Conviction The theory fails to carry conviction Spencer himself admits that the resemblance is not complete, and that there are two essential points of difference (as stated above) Garne makes a scathing criticism of the theory as "fanciful, absurd and mischievous", and sarcastically says that

1 Ibid p 200

"biological comparisons are ingenious and well stated and to many writers they have proved fascinating and seductive"[1]

2 **Resemblance Superficial** Quite contrary to what the advocates of the Organismic Theory say, similarity between the two is superficial and not real It is incorrect to equate the cells of a body to the individuals in the state, as the former cannot live apart from the body and have no will of their own, whereas the latter have mind and will of their own, and can act according to their unshackled will The individual in the state is not only free in body, but free in mind too The cell has no life apart from the body The individual on the other hand has not only a body of his own as something apart from the state but a personality of his own To say that the individual is a cell is absurd and is tantamount to mocking at the human personality

3 **Social Bodies and Animals Dissimilar in Origin** The theory says, that both the animal and social bodies begin as germs, this is hardly correct, as the animal body is the result of intercourse between two bodies while society is not the product of such a union Society is formed when human beings come together in a complex network of relationships, and a state is born when people organize themselves on a political basis

4 **State Does Not Age and Die** The state does not grow in the way in which a living organism does by taking food from outside It is appropriate to say, that the state changes as time passes The state is a permanent organisation and it does not die though government may fall

5 **Contradictions** Spencer himself admits flaws in the theory, and quite contrary to the spirit of his theory, he constructs the *theory of individualism While on one hand Spencer compares* individuals to cells, on the other hand, he speaks in terms of individualism Thus two contradictory conclusions are seen in the Organismic Theory of the nature of the state "Thus the first conclusion leads to state absolutism, while the second to *laissez faire* Such contradictions serve to lay bare the inherent defects of the Organismic Theory of the state"[2] Bluntschli and other German writers, who support the theory desire to make the state all-embracing, and sacrifice the interests of the individual at the altar of the state Spencer's own admission about the dissimi

1 Ibid p 204

2. Amal Ray and Bhattacharya *Political Theory* (1962) p 374

larity between the state and a living organism and his emphasis on individualism go against the stand of Bluntschli and the core of the theory

6 **Vague on Obligations of State** The theory is vague on the obligations of the state It does not say clearly what the state is expected to do

Conclusion However the theory is not utterly worthless and misleading, It brings to a focus the point regarding "the type of unity which belongs to the state The closest example of this unity is found to exist in an organism "[1] A proper appreciation of the spirit of the theory will show that there is some sort of resem lance between the state and a living organism The theory has the merit of underlining the importance of unity in the state "The organismic theory has a certain value in emphasising the unity of the state, the interdependence of the individuals that compose it, and the gradual and continuous evolution of its historical growth In this respect it was a useful antidote to the eighteenth century theory that viewed the state as a mechanicial and artificial creation of man, which could be remade at his pleasure, regardless of history and traditions "[2]

The Mechanistic Theory

State Like a Building The Mechanistic Theory compares the state to a building and the creator of state to an architect The structure of the state is built through a contract or convention, makers of the state can remodel or demolish the old structure (of state) and build a new one, if they want The state is also put on a level with the machine, which is operated by the mechanic

Criticism The theory can be easily criticised The construc tion of the state is not so simple as the theory suggests The theory ignores the forces that served as a background to the esta blishment of the state The actual origin and evolution of the state as a result of various historical forces and the true nature of the state are side-tracked and an artificial theory regarding the state as a bulding or mechanism has been fallaciously given

4 The Contract Theory

State Based on Contract The Contract Theory has been used to explain the origin and nature of the state The theory speaks of a pre-political state of nature, which came to an end

1 J P Suda *Elements of Political Science* (1952) p 173
2 R G Gettell *Political Science* (1956) p 111

only when a political association was made by men through a contract. The contract deals with the establishment of the state, the nature of the state and the relations between the rulers and the ruled.

Examples of Contract The germs of the Contract Theory can be found in ancient Greek and Roman political thought The [illegible] the state was the product of a volun[illegible] [illegible] which was against nature The [illegible] power of the Roman Emperor was [illegible] the people The Biblical writer spoke [illegible] between King David and the Elders of Israel. [illegible] the feudal structure was based on contract [illegible] the Contract Theory was found in the [illegible] and Rousseau[1] and the American and [illegible] made use of the ideas of the Contract [illegible] the old order

[illegible] The Contract Theory does not satisfactorily [illegible] the state just as it fails to explain the origin [illegible] something made directed and controlled [illegible] on the part of its citizens The theory [illegible] the artificial and conventional side of [illegible] formal act of will [illegible] natural aspects It degrades the thus directs attention to the [illegible] concern in which the individuals the state and entirely ignores its [illegible] voluntary tie of self-interest"[3] state to the level of a business [illegible] are bound together by the [illegible] Contract Theory makes us ask certain A close examination of the [illegible] people [illegible] earliest questions viz (1) How could inexperienced [illegible] political [illegible] ation? stage of civilization think of a contr[illegible] how (2) Even if we take it for granted, [illegible] of the original contract [illegible] after [illegible] made the contract [illegible]

Non-Economic Factors Ignored The Marxian Theory ignores the forces that gave rise to the state, and fails to explain the true nature of the state, as it is obsessed by the materialistic interpretation of history and the struggle between capitalists and workers It gives importance only to one of the factors in the nature of the state, that is, force

Conclusion The following points emerge by way of conclusion on the nature of state

(1) The state is a politically organized society consisting of four essential elements viz territory, population, government and sovereignty

(2) No theory fully explains the nature of the state (as we have already observed), and we have to draw out particles of truth from every theory

(3) The nature of state is a matter of controversy, and various thinkers have developed their own points of view

(4) The most reasonable view regarding the nature of state is that it is neither an organism nor product of a contract It is an organisation in which the individual depends on society and society depends on the individual The state aims at promoting the welfare of people The individual is not to be lost in the state or sacrificed at its altar The individual gives to the state as he receives from it

(See chapter 19 for Nature, Structure and Bases of authority in the modern state)

MAIN POINTS

1 **Meaning of State** Politically organized society within a given territory

2 **Society State and Association** Society a large network of human relationships Association a voluntary group formed for a specific purpose (having no sovereignty)

3 **Essential Elements of State** (1) Population No hard and fast rule for size But population should not be too small

(2) Territory No rule regarding area Large area favourable

(3) Government Machinery of state

(4) Sovereignty Supreme power to coerce and punish Most important element of state

4 **Theories of Nature of State** (1) Juristic Theory State as a legal person (2) Organismic Theory State as a living organism Difference between ancient (and medieval) thinkers and modern thinkers Former say that state is like an organism and latter say that state is an organism (3) Mechanistic Theory State like a building (4) Contract Theory State based on contract (5) Marxian Theory Class war State of slave-owners

5 **Conclusion** Particles of truth to be collected from various theories

only when a political association was made by men through a contract The contract deals with the establishment of the state, the nature of the state and the relations between the rulers and the ruled

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Theory Absurd The Contract Theory does not satisfactorily explain the nature of the state, just as it fails to explain the origin of the state "The state is something made, directed and controlled by a formal act of will on the part of its citizens The theory thus directs attention to the artificial and conventional side of the state and entirely ignores its natural aspects It degrades the state to the level of a business concern in which the individuals are bound together by the purely voluntary tie of self-interest"[2] A close examination of the Contract Theory makes us ask certain questions viz (1) How could inexperienced people in the earliest stage of civilization think of a contract and a political organization? (2) Even if we take it for granted, that a contract was made, how can the original contract bind the parties long after the death of the parties that made the contract?

5 The Marxian Theory

State of Slaveowners Marx and his friend Engels say, that the state took birth at a certain stage of economic development, when society was broken into classes haves and have nots According to them, the state, which rose was controlled by slaveowners Slave owners ruthlessly exploited the slaves, and became stronger and stronger This led to a wide gap between the haves and the have-nots and a terrific class struggle ensued

1 Details on the Social Contract Theory are given in the chapter on *The Origin of the State*

2 J P Suda *Elements of Political Science* (1952) p 174

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CHAPTER 5

STATE AND NATION

Nationalism, a very vital force in modern times clearly emerged in the nineteenth century In the twentieth century, nationalism became still more conspicuous, and came to be taken for granted almost everywhere like air and water In fact, the very basis of the modern state is nationalism "Nationalism still enjoys greater support and acceptance all over the world than any religion According to John H Randall, 'Nationalism is almost the one idea for which masses of men will still die'"[1] Nothing thrills the people of a country so much as the force of nationalism, and nothing galvanizes or vitalizes the people in a country as the national feeling In ancient times, there were city-states, kingdoms and empires, in medieval times, there were feudal states, but now, we have nation-states

A Definition and Meaning of Nationalism

Common Consciousness and Oneness, Political Unity and Independence The term 'nation' (natus=born) etymologically means a group of people coming from a common stock But today the word is not used in such a narrow sense 'Nation' represents all or a vast majority of people in a state brought together by an emotional and political force known as nationalism, which is the product of various factors In political science, 'nationalism' is one of the several terms, which are open to different interpretations It is not so easy to define nationalism as to describe it or to give the qualities of people, who are regarded as a nation, as nationalism has various aspects, and is not a force acting in one direction only Moreover, terms like 'state', 'nation' and 'nationality' are often used loosely, vaguely and carelessly Nationalism is a feeling of oneness or common consciousness based on political, historical religious, linguistic, racial, psychological and other factors in a

1 J S Roucek & Others *Introduction to Political Science* (1954) p 597

state Broadly speaking, the term 'nation' stands for a group of *people, who are bound together by ties of common race, common* language and literature, common land, common history, common religion, common joys and sorrows and common political aims and aspirations It is not enough if these bonds are there, the people must be aware and conscious of these emotional and psychological ties and factors "According to Carleton Hayes, a nation 'is any group of persons who speak a common language, who cherish common historical traditions, and who constitute or think they constitute, a distinct cultural society in which, among other factors, religion and politics may have played important though not necessarily continuous roles '"[1] In the words of Ramsay Muir, "a nation is a body of people who feel them selves to be naturally linked together by certain affinities, which are so strong and real for them that they can live happily together, are dissatisfied when disunited and cannot tolerate subjection to peoples who do not share these ties" "Rightly understood, nationalism stands for the historical process by which nationalities are transformed into political units and for the legitimate right of a people who form a distinct and vigorous nation or nationality to a place in the sun "[2] Nationalism constituting a feeling of oneness, political unity and independence welds the people of a state into a nation Alfred De Grazia observes "Nationalism combines love of country and suspiciousness of foreigners Love of country comes from shared values, and suspiciousness of foreigners comes from the belief that foreigners do not share such values in the same strength The first shared value is the love of familiar places–the neighbourhood, the land, the homes, the valleys, and the mount ains, all of the surroundings that one loves because they have been ' part of oneself" from infancy "[3]

Full-fledged Nation A group of people, who are bound by various common factors cannot constitute a full–fledged nation, unless the feeling of oneness exists side by side with political unity and complete independence *In India, the people in the latter* part of the nineteenth century felt the impact of the forces of nationalism, but they became a full–fledged nation on August 15, 1947, when India became completely independent

1 Ibid, p 597
2 E Asirvatham, *Political Theory* (1957) p 563
3 The Elements of Political Science *Political Behaviour* (1962) p 290

State and Nation The world has seen the state passing through different stages There were city-states in ancient times and now we have nation-states Today, in most of the states no force is so strong as nationalism, and this has become almost a passion among people The recent trend is to refer to a state as nation, though 'state' and 'nation' are not synonymous terms The difference between 'nation' and 'state' has to be known clearly While the term 'nation' stands for a group of people bound together by several factors in a state, the term 'state' stands only for a politically organized society in a given territory As the term 'nation' is commonly understood today, it has a wider meaning than 'state' It is much more than the state State and a feeling of common consciousness and oneness mean nation Today India is a nation, as the state of India also includes a feeling of oneness and common political consciousness in the minds of the people India in the medieval period was not a nation (though it was a state or rather a group of states), as people did not have common consciousness "Nation is very near in meaning to state, the former has a broader signification It is the state plus something else, the state looked at from a certain point of view viz that of the unity of the people organized in one state Thus we speak of the British nation, meaning the British people organized in one state and acting spontaneously as a unity"[1] Zimmern clearly brings out the difference between the two terms "Nationality[2] like religion is subjective, statehood is objective, nationality is psychological, statehood is political, nationality is a condition of mind, statehood is a condition in law, nationality is a possession, statehood is an enforceable obligation, nationality is a way of feeling, thinking and living, statehood is a condition inseparable from all civilised ways of living"

Nation and Nationality The precise meaning of the term 'nationality' (not as a feeling but as a conscious group of people) has to be understood, and a line of distinction drawn between the two terms 'nation' and 'nationality' Much controversy has risen regarding the exact meaning of these two terms According to Bryce, a nationality signifies a group of people emotionally and psychologically bound by the common ties of language and literature, ideas customs and traditions The subjective sentiments and feelings

1 R N Gilchrist *Principles of Political Science* (1961) p 25

2 Here nationality is to be understood as a feeling and not as a group of people as discussed in the next paragraph

that forge unity are common between a nation and nationality, but while there is political unity and independence in the case of the former, it is absent in the latter As Hayes points out, a nationality becomes a nation by acquiring unity and sovereign independence A nationality may be regarded as a nation in the making

Patriotism and Nationalism Nationalism is to be distinguished from patriotism While the former necessarily contains political consciousness, the latter may not have it Nationalism needs patriotism, but there can be patriotism even without nationalism

B Factors Creating and Promoting Nationalism

The factors, which create and sustain national feelings are not the same in all states, but it is possible to speak in general terms about certain factors, which normally make a nation It has to be noted here that all the factors given below may not be present in a state Even then, the people form a nation, if the most essential factors are there Factors like common race are not essential, and even in their absence nationalism can rise

The following are the most important factors

1 Common Land Common land is an essential factor Without a common motherland clearly marked out by geographical boundaries, people cannot have a basis for their national feelings A common land creates a clear image in the minds of people and a strong feeling of attachment is fostered No factor perhaps can strengthen the bonds of nationalism as the common land and the love for it Patriotism can be a very firm bed-rock on which the structure of nationalism can be built In India, the Himalayas, the great rivers like the Ganges and the beautiful plains have created very strong patriotic feelings Sometimes, groups of people living in different states develop the spirit of oneness and common consciousness but they remain a nationality, and do not become a nation, till they acquire a common land of their own Before World War I, the Poles and the Yugoslavs were nationalities and not nations The Jews could not claim full nationhood till they got Israel (1948) after World War II

2 Common Historical Background A peep into the history of a state may enable the people to feel proud of their past glory A historical background presenting great triumphs and achievements, common joys and sorrows, common sufferings and political bondage also serves as a good basis for nationalism Indians were made conscious of their glorious history by their great

leaders like Raja Ram Mohan Roy even in the first half of the nineteenth century

3 **Common Culture** A common culture is also a very vital unifying factor The people living in a state in the course of centuries evolve a common culture or way of living through their food habits, dress, customs, usages, traditions, institutions and general attitude to life Common culture goes a long way in welding people into a nation

4 **Common Race** Etymologically, the word 'nation' signifies a people belonging to the same race, but practically speaking, the words 'nation' and 'race' are not synonymous It would be highly advantageous, if all people or most of the people in a state belong to the same racial stock, as this would be conducive to the growth of nationalism But it is difficult to find such a condition anywhere in the world at present

No race has remained pure, owing to race movements and other factors, races have mixed It is encouraging to note in modern times people of different races overlooking racial differences and merging themselves into one nation Englishmen, Germans, Czechs and Poles joined hands to become a nation in the USA. Similarly, Latin, Teutonic and Celtic races blended into the French nation In Canada and Switzerland also racial differences did not hinder national unification

However, differences between two racial groups in a state should not be very wide and unbridgable In Hungary, Magyars posed as superior people, and it was difficult for other people to live in peace with them The merging of different racial groups into a nation can take place only when differences are not glaring

Common race is a desirable factor to foster nationalism, but not an essential one

5 **Common Religion** The religious factor can also strengthen national bonds The importance of religion was greater in the past than what it is today In the medieval and early modern times, the religious factor was of supreme significance The edge of religion has been softened to a great extent today in the light of the principles of toleration and secularism Religion along with other factors can immensely strengthen nationalism In England Protestantism in the days of Elizabeth strengthened the bonds of national unity in fighting against the Armada of Catholic Spain The Scots were unified to a great extent by their Presbyterian

leader, John Knox In the growth of Muslim nationalism in India, religion played the leading role Nothing unified the Muslims so strongly as the call of Islam The slogan 'Islam in danger' made the Muslims in India militant In the establishment of the State of Israel (1948), religion played a conspicuous part, because it was religion that held the Jews scattered all over the world emotionally together

Religion can also become a great source of bickering in a state, if there are two irreconcilable religious groups In India, Hindus and Muslims were divided on the basis of religion and ultimately India had to be partitioned

6 **Common Language** A common language or medium of learning and expression is a great asset in the evolution of nationalism, *though this cannot be regarded as indispensable* The community of language is decidedly more important than the factor of race Mazzini and Fichte regarded language as the most important factor in the growth of nationalism A common language can bring together various groups of people and weld them into a nation as no other force can A common medium of expression creates sympathy, understanding and a sense of belonging among people In India, national leaders made use of English as the medium of expression Indians coming out of educational institutions and universities could understand one another through the English language

But language can also become a dividing force In India, linguistic fanaticism raised its ugly head after the release of the States Reorganisation Commission Report (1955), and made it clear that language can make people crazy about their regional and local language In January 1965, when the Union Government in India proclaimed that Hindi was the official language, serious rioting broke out in the various parts of South India thus showing that language can be a highly inflammable material in a country

However, linguistic differences may not retard national unification in every country

In Europe, nationalism rose in spite of linguistic divisions, the Swiss became a nation by developing common consciousness, though people spoke different languages like French, German and Italian

7 **Common Political Aspirations** Common political aspirations are quite essential to forge national unity A country may

have cultural, religious, linguistic and other types of unity, but unless the people have common political aims and objectives, nationhood cannot be reached Sometimes, linguistic or religious bickerings are patched up by common political ideas Through common political aspirations, nationalities aim at full-fledged nationhood The Indian National Congress expressed in British India the common political aspirations of Indians Good political organization and sound leadership are necessary for mobilising public opinion, for championing the cause of the people and for powerfully expressing the national aims and aspirations of the people.

8 Common Economic Interests Common economic interests in a state are also conducive to the rise of nationalism In Germany, common economic interests brought about the *Zollverein*, a customs' union which strengthened national bonds

9 Common Government A common government is also an important factor The Germans under Austrian domination felt a kind of unity in subjection Before unification under the leadership of Prussia, government in Germany was controlled by Austria Alien control acted as a cementing force in Germany In India, before 1947 the foreign British Government brought about unity in bondage

10 Actual Feeling The most important factor towering above all the aforesaid factors is the actual national feeling It is essentially psychological, emotional, spiritual and subjective No factor or a group of factors can make a people a nation until the people themselves actually feel the spirit of national oneness Nationalism like love or affection can never be superimposed on a people from outside, it has to be born within It has to rise spontaneously and express itself with ease Neither cultural unity nor anything else can make a nation, *if people do not want to be a nation*

C The Evolution of Nationalism

Today we speak in terms of the nation state and national loyalties but in ancient and medieval times, human loyalties did not go beyond the frontiers of the locality or village or city-state or feudal manor In the medieval period, the Holy Roman Empire, in which European states were under the universal church authority acted as a stumbling block to the rise of the nation state Feudalism and other factors also were detrimental to the growth of nationalism

We may examine the most important factors, which created nationalism in Europe

1 Great Movements Great movements like the Renaissance, and the Protestant Reformation and geographical discoveries led to the establishment of strong monarchies, which created national consciousness The Protestant Reformation Movement freed European states from irksome Papal control and stimulated national consciousness The grand monarchs of Europe set up highly centralised governments and created the spirit of national unity in their respective countries The feudal state made way to the monarchical state and the narrow feudal loyalty yielded place to the loyalty to the monarch Similarly, personal and tribal ties made room for national loyalties States, like England and France forged national unity much earlier than Germany and Italy, and long before, people in other states even thought of nationalism Spain, Portugal and Switzerland achieved national unity by the end of the fifteenth century

2 Middle Class The emergence of a strong middle class in European states also paved the way to the growth of nationalism

3 Vernaculars The emergence of vernaculars also facilitated the growth of nationalism In states like England, France and Spain, the vernaculars were developed, and Latin lost the proud place, which it had once occupied Englishmen took pride in their national English literature and in their poets and dramatists, so did the people in countr es like Germany and Italy

4 Education With the rapid spread of education in European states, political consciousness among the common people became strong

5 Democracy The rise of democracy was also favourable to the emergence of national consciousness The decline in the power of kings, who had originally given rise to national unity did not weaken the national spirit In several states, democracy took the place of monarchy, and moved hand in glove with nationalism In the nineteenth century, nationalism and democracy moved like twins in European states It was in this very century that national movements took place in Germany and Italy

6 Partition of Poland The partition of Poland and the sharing of polish territory by Austria, Prussia and Russia which deprived the Poles of their statehood created a strong reaction in

favour of nationalism But without territory, the spirit of the Poles was now without a body The sad plight of the Poles provoked Europeans to advocate the principle that nationalities possess the right to have governments of their own choice

7 French Revolution and Napoleonic Wars The French Revolution and the Napoleonic Wars (1789–1815) provoked the minds of people, whose national aspirations had been suppressed Though the Congress of Vienna (1815) put back the clock of progress and threw a wet blanket on nationalism, the people in Europe did not allow the guards of the old order to have their own way, they fought against the autocracies through the liberal and nationalist revolutions of 1848 The fight against hereditary monarchies and the Divine Right Theory was also a fight in favour of nationalism, liberalism and democracy In the new movements that swept over Europe, people asserted their right to draw boundaries of their own states, this right was till then exercised by hereditary monarchs The nationalities wronged by the Congress of Vienna rebelled against the unjust decisions, which wanted to seal their fate Germany and Italy were kept divided The Belgians under Holland and the Greeks under Turkey, not to speak of other suppressed nationalities, fought to assert their national rights

8 Influence of Great Writers Several social philosophers like John Stuart Mill in the nineteenth century believed that free institutions and nationalism should go hand in hand Fichte spoke very highly of the devotion to the national state The influence of these writers give a great impetus to nationalism

Nationalism in USA and Europe Several factors forged national unity in the British colonies in America The great awakening in the eighteenth century and the desire to be free from British control led to the American War of Independence (1776–83), which gave inspiration to other revolutions like the French The French Revolution spread the spirit of nationalism through Napolean Nationalities in all empires, particularly in the Hohenzollern, the Habsburg, the Russian and the Ottoman rose in revolt against their autocratic rulers By the end of the nineteenth century, almost the whole of Europe was within the folds of nationalism

Nationalism in the East Nationalism roused the Oriental peoples from their slumber towards the end of the nineteenth century, and in the twentieth century, nationalism became a strong creed in many countries in Asia and Africa The principles of

Western nationalism, liberalism and democray had a great effect on the minds of the people in the East Burma, India, Pakistan, Indonesia and Israel became independent nation states after World War II By the end of 1965, thirty three nation states rose in Africa

D The Principle of Self-Determination

New States Carved Out The victory to the Allies in World War I was regarded as a triumph for nationalism and democracy President Woodrow Wilson of the USA became a great champion of the principle of self-determination which means "the right of individuals to determine the soverign state to which they would belong and the form of government under which they would live" The destruction of the Austrian, German, Russian and Turkish Empires in World War I led to the creation of several small nation-states The Peace Treaties (1919), which redrew the boundaries of European states took into consideration the principle of self-determination According to the new arrangements (a) Poland was recognised as a state about 125 years after the Poles had lost their statehood, (b) Czechoslovakia was carved out for the Czechs and the Slovaks, (c) the Serbs, the Croats and the Slovenes found a place in the new state of Yugoslavia (d) the Baltic nationalities secured the new states of Finland, Esthonia, Latvia and Lithuania, (e) Syria, Palestine and Mesopotamia were freed from the imperialist control of Turkey

Realities Ignored While the principle of self-determination gratified the pride of the hitherto oppressed nationalities, it ignored realities Buoyant nationalities were found wanting, when they won full-fledged nationhood National pride in the newly created states like Esthonia, Latvia, Lithuania, Czechoslovakia, Poland, Hungary, Rumania and Yugoslavia could not solve the thorny and challenging questions of the post-war period The problem of disgruntled German minorities scattered over different national states like Poland, Hungary and Czechoslovakia and other causes led to the outbreak of World War II

E Mono-National and Poly-National States

One Nationality One State One of the greatest problems confronting any modern state is of minorities, and this is sought to be solved by the formula of the mono-national state, that is, a state of *one nationality* only The words of John Stuart Mill in support of such a state merit consideration Mill says (1) "It is in general a necessary condition of free institutions that the boun

daries of governments should coincide in the main with those of nationalities" (2) "Where the sentiment of nationality exists in any force, there is a *prima facie* case for uniting all members of the nationality under the same grovernment and a government to themselves apart" (3) "Free institutions are next to impossible in a country made up of different nationalities"

Criticism The principle of the mono-national state adumbrated by Mill can be strongly criticised

1 **Unrealistic** Mill's principle is unrealistic If it is followed, the whole world shall have to be broken into microscopic states

2 **New Problems** The creation of tiny states on Mill's principle would give rise to more complicated problems rather than solving the existing ones In modern times, it is necessary to have at least a certain minimum size in territory and population for national security

3 **Free Institutions** Highly developed free institutions in poly-national states like Switzerland and Belgium disprove Mill's mono-national principle

4 **Poly-National State Stronger** Actual experience in the world shows that a poly-national state is stronger than a mono-national state and free institutions flourish better in such a state than in a mono-national state Different nationalities under a common government are capable of living in amity and peace, and it is incorrect to imagine that there will be continuous discord among them It has been possible in states likes the USA, Switzerland and the USSR for different nationalities to settle down peacefully In fact, as Bluntschli puts it, the co-existence of nationalities within the same state has the advantage of keeping "open communication with the civilisation of other peoples" He adds "Such an admixture (of nationalities) may serve as an alloy to give strength and currency to the nobler metal" Generally the boundaries of a state and those of a nationality do not coincide and the principle of one nationality one state is very difficult to be realized

Acton, unlike J S Mill, is in favour of a poly-national state

F Problems of Nationalities

Danger to Peace Disgruntled nationalities are a menace to peace and security In certain states neither the government nor the nationalities are happy The attitude of the one is an eyesore

to the other and the rulers will never receive the co-operation of the ruled Such nationalities are easily provoked to rebel and riot The suppressed nationalities in the mighty empires of the nineteenth century were vexed problems not only to the respective empires but to the whole world In fact, one of the causes of the two World Wars was the problem of the disgruntled and suppressed minorities The Balkan volcano of highly discontented nationalities, which erupted every now and then was one of the real causes of World War I The dissatisfaction of German minorities in the newly created states of Europe on the basis of self-determination was fully exploited by Hitler, the architect of World War II

Causes of Discontent Every nationality has an individuality of its own, and it wants to preserve it at all cost Its ego is hurt, when it is overlooked and cast into the shade Like self conscious individuals, proud nationalities react sharply against a government, which they feel, has ignored their interests Nationalities would like to fight tooth and nail, when they feel that their rights have been trampled upon by others It is true that in certain states rights of a nationality like (1) the right to its own language, (2) the right to its own customs, traditions and culture, (3) the right to its own institutions, (4) the right to adequate political representation, and (5) the right to be in the sun, may be suppressed by a government controlled by a strong and proud nationality The rebellions and wars in the nineteenth and twentieth centuries were the result of the dissatisfaction and anger among several nationalities in Asia and Europe

G Nationalism in Democratic and Totalitarian Countries

Nationalism in Democratic Countries Nationalism rose in democratic countries like Britain, France and the USA spontaneously and it was based on democratic principles like liberty and equality In these countries, the individual's personality was fully recognised, and the individual felt the national urge in an atmosphere of freedom

Nationalism in Totalitarian Countries In totalitarian countries like Germany, Italy, Soviet Russia and Communist China, nationalism rose on the basis of a militant and aggressive spirit It divorced itself completely from the methods of peace and persuasion These totalitarian states under war-mongering dictatorship provoked the individual to develop under artificial

stimulation an extremely aggressive type of nationalism, which is diametrically opposed to peaceful co-existence In Italy, under Benito Mussolini "fascist nationalism rejected parliamentarianism and democracy, which were characteristic of nineteenth century Italian nationalism, it repudiated peace and harmony and prepared the nation for combat"[1] In Hitlerite Germany, nationalism in its extreme form was built on Nazism Based on the false racial theory of Nordic superiority and on aggressive imperialism, nationalism in Germany was worked up artificially to fever pitch. It was such nationalism that pushed the world into the complete cataclysm of World War II In the twentieth century, in Soviet Russia, a communist totalitarian state, nationalism was built as an antithesis to liberalism and parliamentarianism Slavophilism, Marxism and totalitarianism are the features of Russian nationalism Communist China has also whipped up artificially aggressive nationalism under leaders like Mao Tse-tung

H Nationalism in India

Till 1885 In the first half of the nineteenth century, Raja Ram Mohan Roy roused Indians, and infused in them the spirit of modern times He tried to combine the great values of ancient India with the liberal spirit of the modern world, and bridged the gap between ancient India and modern India

The British East India Company's imperialist campaigns, Lord Dalhousie's Doctrine of Lapse and other factors provoked th Indian "Sepoys" to revolt against the British in 1857 Though the Mutiny was crushed, it was clear that at least the army and a section of the people had been roused to fight against the foreign government 28 years later, the Indian National Congress was established (1885)

From 1885 Onwards The national movement had three phases (1) the first (1885-1905) during which Moderates were leading (2) the second (1906-1920) during which Extremists like Tilak rose and challenged the stand of Moderates and (3) the Gandhi Era (1921-1947), during which Mahatma Gandhi led the movement From 1885 till about 1905, the year in which Bengal was partitioned by Curzon, the Congress was a body of moderate nationalists, whose "weapons" were pen, paper and begging bowl for humble petitioning and political mendicancy The great "patriarchs" of the Congress, who put full faith in the British

1 J S Roucek and Others Introduction to *Political Science* (1954) p 604

sense of justice and fairplay were disillusioned by the dyed-in-the wool autocratic Viceroy Curzon Lokamanya Tilak gave India the *mantra* "*swaraj* is our birth-right" and gave new inspiration to Indians to claim *swaraj* Very important developments, particularly the rise of extremists and militant nationalists, took place in the second phase of the freedom struggle (1906–1920) During 1921–48 known as the Gandhi Era, the air in India was filled with the new patriotic and national spirit of non-violent, non-cooperation, *satyagraha*, *hartal*, boycott and civil disobedience The efforts of Gandhiji and other leaders were crowned with success, when India got her independence on August 15, 1947

Is India a Nation Several Western writers say that India is not a nation According to them, she is hardly better than a loose group of castes, creeds and communities, which are in a state of slumber and are utterly oblivious to the nationalist forces, which welded Germans, Italians and other European peoples into nations It is further argued that Indians do not belong to a common race, do not speak a common language, and do not profess a common religion Indians constitute a mass of heterogeneous groups, which can never be woven into the fabric of a nation in the vast sub-continent India is still in the medieval stage, and is no more than a mere geographical expression

Despite the prejudiced views of several Western writers, who cannot see anything good in the ast, India is a nation It was the dynamic force of Indian nationalism working specially through the Indian National Congress, which ousted the British On numerous occasions, Indians did show that nationalism has been a great force In 1942 (five years before India won her independence), the whole of India was awakened to act, when Mahatma Gandhi asked the British to Quit and asked the Indians to Do or Die In 1947, when India became independent, she became a full-fledged nation The teeming millions of India were mad with joy on the first Independence Day, as they became politically conscious that India was free from bondage Though in several respects India is far behind Western nations, it is nothing short of a calumny to say that she is not a nation The most important attribute of nationhood—the actual feeling of belonging to a nation —is present in India In January 1948, when Mahatma Gandhi was shot dead, all Indians mourned as a nation, for they lost their great charismatic national leader In October 1962, when the

making State different from nation Nation is state plus political consciousness and oneness

2 **Necessary Factors** No absolute standards for measuring nationalism. Common land culture race religion language and political aspirations are unifying forces All these factors are not indispensable and only some may be present. Actual feeling of nationhood the most important factor

3 **Evolution** Rose in modern times Great movements rise of middle class role of vernacular literature spread of education democracy, French Revolution and Napoleonic wars partition of Poland and influence of great writers fostered nationalism

4 **Principle of Self Determination** The right of individuals to determine the sovereign state to which they would belong and the form of government under which they would live ' New nation-states carved out after World War I Creation of new problems Weakness of new states

5 **Mono National and Poly National States** Mill champion of former and Acton of latter Criticism of Mill s principle. Mono-national state impracticable Poly-national state stronger

6 **Problems of Nationalities** No peace in state with suppressed and disgruntled nationalities Rights of a nationality—language culture institutions, political representation and place in the sun

7 **Nationalism in Democratic and Totalitarian Countries** In democratic countries nationalism rose spontaneously and was based on liberty and equality No freedom for individual in totalitarian countries, and nationalism artificially worked up

8 **Nationalism in India** Rose in 19th century Argument that India is not a nation Prejudice of Western writers Nationalism a reality in India Fissiparous tendencies in recent years

9 **Merits and Defects** Healthy nationalism a great blessing Perverted nationalism a curse on humanity Leads to imperialism and war

Section III

ORIGIN OF THE STATE

CHAPTER 6

THE SOCIAL CONTRACT THEORY

The question of the origin of the state has been open to much speculation, and several theories have been put forth to explain the origin The theories, which merit our study are the Social Contract Theory, the Divine Right Theory, the Theory of Force, the Patriarchal and Matriarchal Theories, and the Historical or Evolutionary Theory

The Social Contract Theory was expounded by Hobbes, Locke and Rousseau, the theory as put forward by Hobbes is taken up first

A The History and Meaning of the Contract Theory

In Ancient Times In examining the background to the Social Contract Theory of Hobbes, Locke and Rousseau, one should avoid the temptation of reading too much in what the ancient and medieval thinkers stated about the contract The Contract Theory in some form can be traced to the Sophists in ancient Greece According to the Sophists, the chief principle of human life is self assertion and seeking one's own interests But actually this is not possible because of a contract among men as a result of which the state rose (The state, the Sophists say, is artificial, and against nature, and it comes in the way of man's

In Plato's *Republic*, it is said, that every man tries to get as much as possible for himself, but to be free from the tendency to grab, men formed a contract In his dialogues, Plato explains the views of the Sophists, whom he criticizes In his book *Crito*, Plato makes Socrates say that as an Athenian citizen he obeys the laws (according to the agreement) even when he knows them to be unjust Plato and Aristotle did not believe that the state rose as a result of a social contract, to them the state was a natural and necessary institution

Epicurus, another Greek thinker says that justice is the result of mutual contracts among men, without justice men would live like animals, he does not say that the state originated owing to contract

In ancient Rome, the emperor wielded authority only because the people had agreed to give it to him According to Cicero, "a state is no state where all are oppressed by one or a few, where there is no common bond of law, no real agreement or union Common consent, common will, common power run through his thought implying, indeed almost directly stating the idea of contract "[1]

In India, in Kautilya's *Arthashastra*, it is stated that people who could not bear anarchy chose Manu as king and agreed to pay him sovereign dues, and the king in turn shouldered the responsibility of maintaining law and order

In Middle Ages The idea of contract can be found also in the Teutonic theory of government The Teutonic king, who was elected, almost entered into an agreement with the people to govern well There were cases, in which kings repeated their promises to the people when they wished to win back the confidence they had forfeited In the middle ages, when there was feudalism in Europe personal relations between the lord and the vassal counted much, and these were based on contract The contract laid down the rights and duties of the feudal lord and of the vassal

In the *Old Testament* it is said that David, King of the Jews, had to rule according to a Covenant with the people before the Lord The early Christian fathers believed that government, an evil was the result of sin, God created civil society after man had sinned This belief was gradually replaced by the idea of contract as formed in Roman and Teutonic law According to Manegold

1 R. N Gilchrist *Principles of Political Science* (1961) p 55

of Lautenbach, a priest who spoke of a contract, God is the ultimate cause of civil society, though the immediate cause is the community itself The community elects the king to protect them from tyranny and oppression, and the people obey him only as long as he observes the terms of the contract made at the time of election Manegold spoke very clearly in terms of a contract based on contemporary ideas, but his theory did not serve to explain the origin of the state

In Modern Times Long after Manegold put forth his theory, Hobbes, Locke and Rousseau spoke of the Social Contract Theory though with different aims In the eleventh century and later, several writers wrote of contract For instance, in the sixteenth century, Richard Hooker (1554-1600) put forth his social contract theory, which was a sort of *via media* between the extreme social contract theories of Hobbes and Rousseau

According to the Social Contract Theory, the state rose, as a result of a deliberate and voluntary agreement among primitive men in a pre-social and pre-political stage Before the contract was made, there was no state and no law The details of the contract are different in Hobbes, Locke and Rousseau

B Thomas Hobbes (1588–1679)

A brief reference to the life and times in which Hobbes lived will enable us to understand his ideas in the correct perspective

Life and Times Thomas Hobbes an Englishman lived during the days of the Civil War and the Commonwealth in the Stuart Period He was the son of a poor vicar In the year in which James I (who ruled by the Divine Right Theory) came to the throne Hobbes was a boy of fifteen years Regarding his birth Hobbes stated in his autobiography that his mother gave birth to twins—himself and fear ! Before he was fifteen years old he joined the Oxford University After his studies he became the tutor to the son and heir of William Cavendish later Earl of Devonshire It was through the Cavendish family and owing to his intellectual brilliance that Hobbes rose to fame and came into contact with eminent personalities like Ben Jonson Bacon and Clarendon Probably it was the influence of the Cavendish family that led to the growth of his pro-aristocratic and anti-democratic attitude

In 1640 he fled to France as he feared that his connection with royalist circles might endanger his life and returned to England only in 1651 He was for some time during 1646–8 tutor to the Prince of Wales (Charles II the son of the executed Charles I) who was in exile in France

Hobbes was in favour of absolute monarchy as he felt that it was the only way to secure for England a strong and absolutely sovereign government ' Though earlier his atheistic attitude towards religion made him fall in the bad

books of the Stuart royal family after the Restoration he won back the favour of the King (Charles II) In 1679, at the ripe old age of 91 Hobbes died

In England he had earned more than his due share of blame for his atheistic leanings and the name Hobbes' stood for 'atheist and everything else objectionable He left a tremendous body of literary works ranging all the way from an early translation of Thucydides through a vast series of treatises on circle-squaring to a political translation of the *Iliad* and the *Odyssey* undertaken when he was eighty-five [1]

The Leviathan The most celebrated work of Hobbes was the *Leviathan* (printed in 1651) through which he expounded his Social Contract Theory Two influences had a profound effect on Hobbes s mind one was of the new physical science as explained by the modern scientists like Galileo and the other was of the Civil War (1642-51) in England which brought out the beast in man Hobbes felt that fear and self interest were the two qualities that motivated man to act The very nature of the animals—human as well as brute—determines them to violent and continual conflict to what two centuries later was to be called a struggle for survival [2]

The influence of the times was indeed great on his mind The Civil War and the chaos and confusion following it and the execution of the Stuart King Charles I made Hobbes believe that absolute monarchy was the only remedy for England The enemies of Hobbes looked upon him in contempt as the pensioner and encomiast of the Stuarts The *Leviathan* provoked a large number of writers who condemned him in the most vituperative terms regarded him as blasphemous and stigmatised him as a scoundrel

C Hobbes's Social Contract Theory

State of Nature In his *Leviathan* (called a Commonwealth or in Latin *Civitas*), Hobbes gives a very dark picture of man's condition in a pre-social stage Men are brutal, selfish and rapacious, and utterly devoid of the sense of right and wrong The two factors which dominate over men in this state are fear and self-interest "In a word Hobbes's main contention here is simply this, that, though man doubtless wants peace, his fear of others, his anxiety to maintain what he already has, his selfish and grasping desire for still more—these basic appetites and aversions lead him to continuous strife with his neighbours"[3]

Man's position in the pre-social stage can be summarised thus (1) Man was not social, (2) he wanted to grab more and more (3) selfishness and fear made him wage an endless war with his neighbours (4) man's condition was "solitary, poor, nasty, brutish and short", (5) there was no peace and the weak had no chances of survival

1 W T Jones *Masters of Political Thought* Vol II (1959) p 87
2 Ibid p 90
3 Ibid p 101

Social Contract to Form State The state of nature was indeed too terrible to continue perpetually and indefinitely "In the language employed by Hobbes the natural condition of mankind is war, where every man is enemy to every man In such a condition of fear and insecurity there can be no industry, no agriculture, no knowledge, no arts, no letters and no society"[1] To escape from horror and anarchy, men made up their mind to form a civil society or commonwealth, which would punish the wicked and protect life and property As natural rights were not worthwhile because they led to utter anarchy, men decided to surrender them to a superior man, or a group of men whose orders they agreed to obey *through a contract* "The contract was of each with all and of all with each" In other words, it was a social contract Every man said to every other man "I authorise and give up my right of governing myself to this man or this assembly of men (government) on this condition that thou give up thy right to him and authorise all his actions in like manner" This marked the birth of the state Through the contract natural rights were surrendered to a particular man or group of men, who became the sovereign and those, who gave up their rights became the subjects An interesting point is that the sovereign, though a product of the contract, did not become a party to the contract

Absolute Monarchy The features of Social Contract of Hobbes, which clearly favoured absolute monarchy, were the following

1 **Superiority of Sovereign** The sovereign, the product of the contract secured a commanding position, and was superior to the contracting parties

2 **Sovereign Not Bound by Contract** The sovereign did not enter into a contract with the subjects and was not bound by the contract

3 **Permanent Surrender of all Rights except Self-Preservation** Men surrendered all their rights (including the right to rebel) to their sovereign They could not challenge the sovereign's authority, even if he happened to be wicked and oppressive People were afraid that any revolt against the sovereign might lead to anarchy again The only right not given up by the contracting parties was the right of self-preservation

[1] J P Suda *Elements of Political Science* (1952) p 137

4 **Sovereign, Fountain of Laws** The sovereign was to exercise "absolute, inalienable, indivisible and unlimited authority" He was the fountain of all laws, which were his commands to be implicitly obeyed And liberty was to be regarded as a gift or favour of the sovereign, which included the right of self-preservation and what the sovereign allowed

5 **Monarchy Favoured** Sovereignty could be located in the hands of a few or many, but Hobbes was highly in favour of monarchy His Social Contract Theory was appreciated by Cromwell and Charles II

D Evaluation of Hobbes's Theory

Let us briefly examine the merits and defects of Hobbes's Social Contract Theory

Merits The following are the merits of the Theory

1 **Leviathan a Masterpiece** In the University of Oxford and later on after he left its portals, Hobbes revealed his brilliance in rational and scientific thinking, and his *Leviathan* has been regarded as a masterpiece in the English political thought, and one author goes to the extent of regarding it as "the sole masterpiece of political philosophy"

2 **Scientific Presentation** Though full of flaws, the Social Contract Theory has to be praised for its scientific presentation

3 **Statement on Sovereignty** The world of political science is particularly indebted to Hobbes for his full statement on sovereignty It is said that Austin's Theory of Legal Sovereignty is nothing but the further development of Hobbes's theory

4 **Good for the Times** Hobbes should not be judged by the exacting standard of the twentieth century To his credit, it should be stated that the theory was good for the times, and it was presented in a century in which political thought had not advanced far

Defects For one admirer of Hobbes's theory, there are a dozen to cavil at his thinking His Social Contract Theory has been brought under the fire of devastating criticism His contemporaries looked at him suspiciously for his agnostic or atheistic attitude and treated him with contempt One can easily understand the wrath of his enemies who were also the enemies of the autocratic and oppressive Stuarts, whose patronage he enjoyed

The theory can be criticised as follows

1 **Too Horrible and Cynical** The description of the state of nature is too horrible and too cynical to be believed It appears that Hobbes's primitive men were worse than beasts While animals within their own species did not prey on one another, men stooped so low as to kill their own fellow beings History does not bear witness to a state of nature as given by Hobbes

2 **Contract Incredible** It is difficult to believe that in a state of nature, bloodthirsty and selfish men dominated by fear came together and made up their minds to surrender their natural rights to a sovereign Had these men the good sense to think in terms of making a contract, they would also have the sense to live in decency and in a spirit of cooperation, and not in the way depicted in the *Leviathan* " his view of human nature as essentially selfish cannot be maintained, he is prepared to believe in a being who is a savage in the state of nature and a saint in the state of contract "[1] Hobbes wants us to strain our reasoning power excessively, and become too gullible We have to take it that the state of nature never existed, and men never made a social contract Though instances of political or governmental contracts can be found in history, these were however not made by men in primitive and pre-social and pre-political conditions, but by men who had already lived in states

3 **Contradictory Statements** Hobbes makes contradictory statements While on the one hand, he says that the state of nature was pre-social, on the other hand, he wants us to believe that men had natural rights It is too much to imagine that men had rights in a pre-social and pre-political stage

4 **Complete Surrender Unreasonable** It is equally unreasonable to suppose that men decided to surrender all their rights to the sovereign, bound their own hands and feet, and placed themselves at the disposal of the sovereign

5 **Sovereign Not Party to Contract** It also defies reason and common sense that the sovereign was not a party to the contract, though at the same time a product of the contract

6 **Contract Binding on Future Generations** The contract of Hobbes binds future generations, who are made to suffer "A contract has binding effect upon only those who accept it voluntarily But the social contract is supposed to bind generations of

1 A Appadorai *The Substance of Politics* (1957) p 25

Locke in his young days had witnessed the bloody events of the Civil War, but in the later days of his life he saw the Glorious Revolution (1688) and the accession of William and Mary

Unlike Hobbes Locke had sympathy for constitutional monarchy and the success of the Bloodless Revolution proclaimed the truth of his theory put into practice Locke wrote two essays on the nature of government with the title *Two Treatises of Government* (1690) thirty-nine years after the release of Hobbes's *Leviathan* and two years after the Bloodless Revolution He put forth his theory to justify the Glorious Revolution and to refute the theory of absolute monarchy upheld by Hobbes and Filmer

B Locke's Theory of Social Contract

State of Nature In Locke's Social Contract also we find the description of a state of nature, but here, the state of nature is not so bad as in Hobbe While Hobbes's state of nature is pre-social, Locke's is pre-political Similarly, the attitude of man in the state of nature as given by Locke is a contrast to that of man in Hobbes's theory According to Locke, man in his primitive state was not brutal, aggressive, selfish and nasty, but social and sympathetic towards others and there was "a state of peace, good will, mutual assistance and preservation" The equality that we find in Locke's state of nature is different from that in Hobbes's, men who were equal and free did not live in a perpetual state of war killing and robbing each other but living "within bounds of law of nature" without harming others " in the state of nature men are free and equal, each lives according to his own liking This freedom, however, is not licence There is a natural law or the law of reason which commands that no one shall impair the life, the health, the freedom or the possession of another"[1]

Locke's man in the state of nature enjoyed certain rights like right to life, liberty and property, but at the same time these rights entailed corresponding obligations and man had to honour similar rights of others

However, human beings in a state of nature had to face difficulties The great drawbacks of the state of nature were (1) laws were not clearly defined, (2) there was no way of enforcing the decisions jointly taken by men, and (3) there was no independent arbiter armed with authority to settle disputes To remove the drawbacks two contracts were made (1) Social Contract and (2) Governmental Contract

1 Quoted by A Appadorai in *The Substance of Politics* (1957) p 26

men who have had no say in the matter at all If the fathers eat sour grapes, why should their children's teeth be set on edge?"[1]

7 **Against Freedom and Democracy** The Contract is against freedom and democracy The people have no right to rise in rebellion against the sovereign, even if he rules arbitrarily against their interests According to the Earl of Clarendon, "Mr *Hobbes* is so great an enemy to freedom that he will not allow man that which God has given him, the freedom of his will" Hobbes takes away from the people the most important right to rise against a wicked tyrant, and thus proves to be completely anti-democratic "Hobbes was frequently interpreted or misinterpreted as an intellectual forerunner of royal despotism, and later totalitarianism"[2]

8 **Society and State Not Distinguished** Hobbes does not draw a line of difference between society and state, and state and government

9 **Political Sovereignty Ignored** While making a case for absolutism, Hobbes does not give the idea of political sovereignty He only speaks of legal sovereignty

II A John Locke (1632-1704)

A brief account of the life and times of Locke will enable us to have a clear background of his theory

Life and Times Locke took birth in a middle class Puritan family in England and his father participated in the Civil War (1642-51) on the parliamentary side A comparison can be drawn between the lives of Hobbes and Locke Both were English philosophers and political thinkers living almost at the same time both had to leave England and go in exile owing to their political beliefs both returned to England and spent the remaining part of their lives and both wrote theses on political science and become authors of the Social Contract Theory

The comparison however is not complete and a sharp contrast begins even though they were contemporaries influenced by the same events in England and outside During 1675-9 Locke lived in France and returned to England in 1679 Owing to his liberal views he was compelled to flee to Holland where he continued to stay till 1689 It was in Holland that his liberal views crystallised themselves In contrast to Hobbes Locke developed a sympathetic view of human nature His father s influence and the warmth of his friends like Lady Masham had played a good part in the evolution of his sympathetic disposition Misfortunes and illness kept company with him Nevertheless he managed through all this to see enough native goodness and kindness in his fellow-men not to turn on them the jaundiced and cynical eyes of Hobbes[3]

1 E Asirvatham *Political Theory* (1957) p 59
2 W Ebenstein *Political Thought in Perspective* (1957) p 145
3 W T Jones *Masters of Political Thought* Vol II (1959) p 154

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(1) The Social Contract To put an end to the condition of fear and danger and to ensure security in the state of nature (which was not so bad and unbearable as given by Hobbes), men entered into a contract with one another, and formed a civil society As this contract was of *all* with *all*, it was a *social* contract In Hobbes's theory, there is only one contract, but in Locke's there are two By making the first contract, the state of nature ended, and civil society was born For the sake of forming a civil society, men surrendered certain rights and powers so that at least the remaining rights could be enjoyed, the surrender of rights was not made to a monarch or an assembly of men but to the entire *community* Moreover, all natural rights were not surrendered Each one willingly surrendered to everyone "his single power of punishing to be exercised by such alone as shall be appointed to it amongst them and by such rules as the community of those authorised by them to that purpose shall agree on" Locke thus recognises the sovereignty of the community of people, which is not done by Hobbes

(2) The Governmental Contract The second contract of Locke was a governmental contract Civil society, the product of the first contract created an authority to enforce decisions, and thus a government was formed People decided that one among them should be chosen ruler, and should be entrusted with the duty and responsibility of carrying on government with their advice The governmental contract, which selected a ruler did not give him unlimited authority, on the contrary government had to use authority in the interests of the established known laws, and in case the government acted contrary to the ends of the civil society, the community had the right, to get rid of the government and set up another government Thus, the social contract was superior to the governmental contract, and the community superior to the government

Hobbes makes men surrender all their rights except the right of self-preservation to the ruler and give absolute power to the government Locke makes men in the state of nature first form a civil society through contract and then form a governmental contract giving only *limited* authority to the government Hobbes's men have no right to rebel, while those of Locke have it as an inherent right

Nature of Locke's Government The nature of government as given by Locke is as follows

1 **Constitutional Monarchy** Government in Locke's theory is in the hands of a monarch, who has to rule constitutionally protecting the interests of the community as a whole He forfeits the right to rule if he, like James II of England, abuses his authority (In keeping with the principles of Locke's Social Contract Theory, the people in England compelled James II to give up power and invited William and Mary to England to rule constitutionally The Glorious Revolution (1688) of England proclaimed the truth in the views of Locke)

2 **Three Types of Power** Locke speaks of three types of power viz legislative, executive and federal The legislative is the supreme power of the Commonwealth, because it is through the legislative that the will of the community is expressed The people are superior to the legislative and they are the final embodiment of power The people can change or abolish the legislature, if it goes against their will The executive must always be in session and executive power includes judicial also The executive must be separate from the legislative The federative power is the power of making treaties

C Evaluation of Locke's Theory

In his Social Contract Theory Locke speaks of natural rights, making of two contracts, the monarch as a party to the contract, limited monarchy, people as source of power and the right of the people to rebel against the government The theory has its own merits and defects

Merits The following are the merits in Locke's Social Contract Theory

1 **Distinction between Society and State** Unlike Hobbes, Locke can claim the merit of making a clear distinction between state and society and state and government His state of nature is pre-political and not pre-social

2 **Inalienable Rights** Locke renders a great service to mankind by giving the theory of natural rights In the state of nature men had the rights to life, liberty and property, which were inalienable Civil society was formed through a social contract to secure these important inseparable rights of the individual Locke was perhaps the first prophet speaking on inalienable human rights

3 Limited Monarchy The doctrine of limited monarchy is a great contribution of Locke According to Laski, Locke gave the principle of government by consent a permanent place in political science In Hobbes's contract, monarchy is absolute, in Locke's it is limited Locke's government remains in power only as long as it serves the needs of the community, no sooner the people are against it owing to its abuse of power, than it is dissolved Locke's treatise championed democratic principles and influenced the American and French Revolutions "*His sincerity, his profound moral conviction, his genuine belief in liberty, in human rights, and in the dignity of human nature, united with his moderation and good sense, made him the ideal spokemen of a middle class revolution As a force in propagating the ideals of liberal but not violent reform Locke probably stands before all other writers whatsoever*"[1] Locke's treatise has also been hailed "as the Bible of Liberalism, classic of English Constitutional Law and Polity" As Ebenstein puts it "Its philosophical rationalism, luminous commonsense, and liberality of spirit have made it the Bible of modern liberalism, and its influence in America, particularly in the period immediately preceding the American Revolution has been no less profound than in England itself"[2]

4 Political Sovereignty Locke gives the theory of political sovereignty, which is not found in Hobbes's theory

5 Foreshadowed Separation of Powers Locke foreshadowed the Doctrine of Separation of Powers as given by Montesquieu which had a great influence on the American constitution

Demerits The following are the demerits in Locke's theory

1 Incredible The theory is incredible *It is difficult to believe that in primitive society in a state of nature men made two contracts*

2 Vagueness of Location of Sovereignty Locke is not clear on the location of sovereignty and he does not distinguish between different kinds of sovereignty While he says that the ruler should govern according to the consent of the people, he fails to say clearly that sovereignty is located in the community *He completely overlooks the principle of legal sovereignty as given by Hobbes*, it appears that sovereignty in Locke's theory is divided between the people and the government

1 G H Sabine *A History of Political Theory* (1957) p 456
2 *Political Thought in Perspective* (1957) p 285

3 Rights, Absurd It is absurd to speak of rights in a state of nature Some thinkers severely criticise Locke's theory for defending natural rights According to Bentham, talk of rights in the state of nature "is simple nonsense, rhetorical nonsense and nonsense on stilts"

III A Jean Jacques Rousseau (1712–1778)

A brief reference to the life and times of Rousseau will enable us to have a clear understanding of Rousseau's theory

Life and Times Rousseau was born in 1712 at Geneva the capital of Switzerland His mother died soon after his birth and in his tenth year his father had to flee from Geneva after participating in a street fight The next six years of his life were very hard and in the sixteenth year the poor orphan left Geneva Penury drove him to beg a few loaves of bread from a mean-minded priest who converted him to Roman Catholicism as a price of the meal that he served him For several years Rousseau roamed about in Europe as a penniless tramp

Since 1744 he settled down in Paris for the rest of his life It was here that the unknown vagabond shot into fame through his books *Discourses on the Moral Effects of Arts and Sciences (1751) Discourse on the Origin of Inequality (1755) and The Social Contract (1762)* His writings attacking the order of his times provoked the anger of the French Government which condemned him and issued an order for his arrest Then Rousseau fled to England where he enjoyed the hospitality of the English philosopher Hume Unfortunately he could not get on well with his English friends and returned to France and spent the remaining years of his life in writing his *Confessions* and other works He died in 1778 and eleven years later that is in 1789 the French Revolution broke out

The great philosopher Rousseau was an admirer of man s simplicity in a state of nature and strongly condemned civilized life as artificial He criticised the corruption and degradation in civilized society and said that return to natural simplicity was the only way to escape from the unhappy state of affairs

B Rousseau's Theory of Social Contract

State of Nature The state of nature about which Rousseau speaks in connection with his Social Contract Theory was a pleasant contrast to the Hobbesian state of nature Rousseau's primitive man was a 'noble savage', who led a natural, innocent and simple life, and experienced "idyllic happiness" By his very nature he was kind and sympathetic towards his fellows quite unlike Hobbes's man,whose life was "solitary, nasty, brutish and short", and who was always motivated by fear and self-interest But the scene of perfect happiness in which there were no social laws and institutions could not continue indefinitely

Rise of Inequality and Unhappiness Certain factors came in the way of continuous happiness of primitive society, and soon idyllic happiness came to an end These were the following

(1) The growth of population and the rise of reason were detrimental to the state of primitive happiness

(2) In the beginning, in the state of nature, there was equality, this disappeared with the evolution of family, private property and other institutions People, who were "noble savages" became selfish, and started speaking in terms of Mine and Thine People became acquisitive, and every one tried to secure as much as possible for himself Some got much, because they were strong and clever, while others got little, as they were weak and dull Differences between the rich and the poor became wider and wider

(3) The state of happiness gave way to state of strife Men became selfish and greedy, and engaged themselves in murder and war The unhappy condition, which was not originally found in the state of nature became the general rule

Contract to Form Civil Society As Leacock observes "Man is thus driven to relinquish his 'natural liberty' that rather illusory 'unlimited right to everything he is able to obtain' and by a union with his fellows to substitute civil for natural liberty " Men thought of finding out an escape from the state of strife, and this was through a social contract The contract, in which each individual made agreement with all, and all with each, gave rise to a civil society In the civil society or state, all depended upon each, and each depended on all The contract was for the common good, and also for the good of each individual Unlike in Locke's theory, there is only one contract When man made a social contract, he lost his original simple happiness In his inimitable words in the opening sentence of *The Social Contract* Rousseau says, "Man is born free but is everywhere in chains "

Concept of General Will The concept of the General Will is of paramount importance in Rousseau's Social Contract Theory The following are the features of Rousseau's General Will

1 **General Will Dictate of Conscience** The individual through a contract becomes the member of a civil society, and thereby completely and unconditionally surrenders to the General Will, which is the will of the entire body of contracting members The General Will is not exactly the will of all, but is always the expression of inner will, a dictate of conscience and is always right, altruistic

and universal", and it considers only common interests On the other hand, the will of all takes private interest into consideration A very important question is whether the General Will is the unanimous will of the members of the community "The obvious difficulty of this is that only unanimity which in practice is impossible to secure, could make a law valid Rousseau however says that the General Will is not necessarily the unanimous will of the citizens Absolute unanimity is necessary only for the original contract After the state is established, consent is implied in the fact of residence "[1]

2 Stands for Interests of All The General Will stands for the interests of the whole body, and not for the interests of any particular individual, it is the will of all the members, when they desire to have not the fulfilment of their own selfish interests but the general good of all The best will of every individual is that which aims at securing the common good, this will is more real than the individual s will, which stands for private interests only

3 Sovereignty of General Will The General Will, which is the real will of each individual must be sovereign, and it must be obeyed and followed by all When the General Will is followed, it only means that each member follows his own real will

4 General Will Coercive Authority It the individual does not follow the General Will, he can be forced to follow it, the coercive authority is the General Will itself How can the General Will have authority over the individual? The answer is very simple When the General Will uses coercive power, it means the real will of the individual is acting and coming back to the individual (who goes against the common good) The General Will is infallible, and is always right, because it stands for the interests and the welfare of all Obedience to the General Will is obedience to oneself, as one along with others is the author or maker of the General Will Thus, there is no justification for disobeying the General Will

5 Loyalty to the General Will By saying that the individual has to be completely loyal to the General Will, Rousseau prepares a case for the loyalty and obedience of the individual to the state

1 R N Gilchrist *Principles of Political Science* (1961) p 63

6 Loyalty to State First Loyalty to state precedes loyalty to other associations The state is infallible, as it is the guardian of the interests of all It is better if associations other than the state do not exist, even if they exist they should not come in the way of the state and they should not be on a level with the state.

7 General Will Inalienable Rousseau says that the General Will is "inalienable and indivisible" and it can never be delegated in any way From this, it follows that when a nation appoints representatives, it ceases to be free According to this reasoning, England, which is free only during general elections, loses her freedom after them

8 General Will Impersonal The General Will, which is sovereign is impersonal unlike the executive will, which is personal. Law-making is the task of the Sovereign General Will, but the enforcement of laws is the work of the executive will, which is the agent of the General Will In other words, government is the agent of the people, and is subordinate to the people

9 No Second Contract A clear line of distinction is drawn between the sovereign and their instrument the government (In Locke's theory, there is a second contract, that is, the governmental contract for the formation of the government, in Rousseau's theory there is nothing like that) Government is the product of sovereign's decree and not the result of any second contract

10 Law Expression of General Will Law in the state is the expression of the General Will The individual has a dual role, that of a law-maker and a law-respecter As a member of civil society, and as a contributor so the General Will, he is a law-maker, and as one who has surrendered to the General Will, he is obedient to it A person, who does not obey the General Will, will be "forced to be free"

11 Security Based on General Will There is security of life in the state, because it is based on the General Will The individual is both a member of the sovereign community and a subject. He enjoys liberty and equality because he has surrendered himself to the General Will Rousseau says "Since each gives himself up to all, he gives himself up to none, and as there is acquired over every associate the same right that is given up by himself there is gained the equivalent of what is lost, with greater power to preserve what is left"

People and Government The people are the sovereign, they can reduce or even take away the power of government or change the government What form of government does Rousseau favour? He is not so particular about the form as long as the General Will prevails As things are in the practical world, the General Will can triumph only in a small state, in which the people can meet together and make laws to give expression to their General Will Thus, Rousseau is in favour of a small state (where there can be direct democracy) According to him, it is not possible for the General Will to assert itself in large states (where there is representative democracy) In modern democracies, certain classes somehow come to power, and this results in the negation of the General Will If the General Will is to assert itself, law should not be the expression of the will of any particular class or sectional interests, but the expression of the will of the whole community While Rousseau's predilection was for the form of government as found in the ancient Greek city-states and the cantons of Switzerland, he criticised representative government as a facade for slavery

Comparison of the Ideas of Hobbes, Locke and Rousseau The influence of Hobbes and Locke on Rousseau is remarkable The state of nature found in the works of Hobbes and Locke is to be found in Rousseau s work also, though the details are not the same

As in the case of Hobbes and Locke, in the case of Rousseau too, civil society is formed for the avoidance of the inconveniences and dangers of a state of nature Rousseau speaks of the sovereignty of the people and the subordination of the government to the people, and as regards the General Will, he says, it should be obeyed by all implicitly What holds good in the case of the Hobbesian king holds good in Rousseau's General Will The powers which Hobbes's monarch exercises, the people in Rousseau's theory enjoy

It is also said that "Rousseau is supposed to blend together the premises of Hobbes and the conclusions of Locke" It is said that Rousseau's voice is the voice of Locke, but the hands are those of Hobbes

Rousseau is in favour of democracy, while Hobbes and Locke are in favour of absolute monarchy and limited monarchy respectively

Sovereignty in Hobbes can be located in the monarch and in Rousseau it is in the people, but in the case of Locke there is no clarity in the location of sovereignty

C Evaluation of Rousseau's Theory

Rousseau's ideas find an important place in the realm of theory and governmental organisation

Merits The following are the merits of Rousseau's Social political Contract Theory

1 Concept of Popular Sovereignty The concept of Rousseau that sovereignty lies in the people brought about a revolution in political philosophy While Locke expressed himself in favour of limited or constitutional monarchy, he did not go so far as to say that sovereignty was vested in the people This was boldly done by Rousseau However vague and faulty Rousseau's concept of General Will may be, it clearly says in unmistaken terms that the people are sovereign, and therefore the government, the agent of this sovereign can be changed or deprived of its powers or abolished altogether by the people (It is significant that eleven years after Rousseau's death, the French Revolution (1789) broke out Napoleon went to the extent of saying that without Rousseau there would have been no Revolution)

2 Will Creator of State Political science is indebted to Rousseau for saying that will and not force is the creator of the state In Rousseau's state of nature, all were free and equal, and the state came into being because people willed to have civil society

3 Law Expression of General Will We are also indebted to Rousseau for making law the expression of the General Will Rulers in the world in those days were to take note of the principle of Rousseau that law is the expression of the General Will, which stands for the common welfare of society and it cannot be the expression of the arbitrary will of a despot

4 Upheld Democracy Rousseau's Social Contract upheld democracy or popular sovereignty for which the people of the modern times are highly indebted to him The great philosopher became one of the foremost champions of democracy and people's rights "With Rousseau the doctrine of social contract, which in the hands of Hobbes was made a weapon of defence for absolutism, and with Locke a shield for constitutional limited monarchy becomes the basis of popular sovereignty "[1] Liberty and equality are "the sheet anchors" of the thought of Rousseau These are highly valued by democracies

1 S Leacock *Elements of Political Science* (1932) p 28

Defects The following are the defects of the theory

1 **Imaginary** Rousseau's Social Contract is as imaginary as his picture of the "noble savage" in a state of nature If Hobbes's picture of the state of nature is too terrible to be true, Rousseau's is too good to be credible

2 **General Will Vague** The concept of the General Will is vague and confusing Very subtle distinction has been made between the General Will and the will of all, and to explain this difference hair-splitting arguments have to be advanced

3 **General Will Absolute** Rousseau makes the General Will absolute There is no way other than the complete surrender of the individual will to the General Will, which he claims to be infallible No one can give an assurance that the General Will will invariably work for the good of all, on the other hand, it might even become tyrannical In the practical sphere of government, it is very difficult to imagine how such a General Will can be formed In the large modern state, it is not possible for all the people to meet together and express their General Will Even in the Greek city-states like Athens, with all their ideals, such meeting was not possible, because political institutions in Greece could not work without slavery, but slavery is incompatible with Rousseau s theory

4 **Law not Expression of General Will** Law is the expression of the General Will says Rousseau This has only theoretical importance, and is hardly possible even in direct democracies

5 **Vague and Unconvincing** The writing of Rousseau is sometimes vague and unconvincing, it does not have the "simplicity and clarity of Locke" "It is confused and puzzling, ambiguous and contradictory, an almost hopeless maze of impassioned and violent assertions leading off in various directions, no one of which is pursued to its logical conclusion "[1]

6 **No Stability in Government** If Rousseau's principles are followed there would be no stable government, because the General Will does not stand for the will of the majority Today demo cratic governments function according to the *will of the majority*, which is not the case in Rousseau s picture

7 **Executive Functions Only** Government in Rousseau's state has only executive functions and not legislative, and only the people

1 W T Jones *Masters of Political Thought* Vol II (1959) p 253

can make laws As the "government" is understood, it includes the legislative branch also[1]

8 **Promotion of Totalitarianism** The vagueness of the concept of the General Will has been exploited to promote the cause of the totalitarian state The individual is forced to obey the order of the "sovereign' people, and the state is made absolute "Rousseau was scarcely aware of the fact that the unrestricted power of the General Will might result in an absolutism scarcely less formidable than that of the older kingdoms and oligarchies "[2]

In Hobbes the king is absolute, in Rousseau the state is absolute Therefore it is said that Rousseau's General Will is " Hobbes's *Leviathan* with its head chopped off "

IV Evaluation of the Social Contract Theory in General

The Social Contract Theory fails in its main aim, though there are some merits in it

Drawbacks The following are the chief drawbacks of the theory

1 **Fails to Explain Origin of State** The Social Contract Theory fails to explain the origin of the state, and it has to be rejected "By some writers like Maine it was pronounced to be 'worthless', others like Green pronounced it to be a 'fiction', Woolsey declared it to be 'utterly false', Bentham dismissed it as a 'rattle' for amusement, while Sir Frederick Pollock characterised it as one of the 'most successful and fatal of political impostures '"[3]

2 **Incredible** The theory is incredible, and cannot stand the test of reason No sane person would believe that men in a state of nature made a contract (or two contracts as given by Locke)

3 **Historically False** The theory is historically false Nowhere in history a solitary instance of a group of *primitive* men making a contract for governance can be found There may be political contracts like the *May-flower* compact of 1620 made by the Puritans to "combine ourselves together into a civil body politic for our better ordering and preservation " But these were made many centuries after the state had been organized The *May-flower* men were not primitives like those men depicted by Hobbes, Locke or Rousseau Only men who had reached a certain level of culture and civilization could make such a contract

1 See R N Gilchrist *Principles in Political Science* (1961) p 63
2 A Appadorai *The Substance of Politics* (1957) p 30
3 J W Garner *Political Science and Government* (1955) p 207

4 **Not Contract to Status** It is incorrect to say that society shifted from contract to status, actually, it moved from status to contract As history speaks, early law was based on custom and the status of the individual was determined by the customary law "Contract according to Maine is not the beginning but the end of society The idea of contract postulates that individuals who enter into the contracts are free to do things in their own way, but says Maine, the evidence of law and custom shows that primitive men had no such freedom "[1] The authors of the Social Contract Theory say that the contract was a voluntary agreement made by the primitive men The real position was quite contrary to this, as men had no free choice in primitive society If custom determined that a person was a slave, he remained a slave, and he as a slave could not make a contract to free himself In the light of the historical truth, the social contract appears as a myth and an absurdity

5 **No Equality among Primitive Men** It is equally absurd to say or presume that there was equality among primitive men Reason tells us that there might have been inequality rather than equality

6 **No Rights without Restraints** According to Locke, men had right to life, liberty and property, and in Rousseau's state of nature there were natural rights and equality This again cannot be true, as there can be no rights and liberties without reasonable restraints As there was no civil society in the state of nature, there were no laws and restraints And moreover, how could there be rights without duties ? And were men so advanced in the primitive stage to conceive the idea of rights and obligations ?

7 **Hobbes's Contract Absurd** In Hobbes's theory it is said that the ruler is not a party to the contract this is also preposterous There cannot be a contract without two parties Moreover such a strange type of contract cannot bind the succeeding generations

8 **Not Voluntary** It is too much to say that every one becomes the member of the state through his own volition, and the relations between members are through a voluntary contract On the contrary, relations are formed through compulsion Membership of a state is not optional, but compulsory No one can argue that he has the right to remain outside the pale of the state

1 A Appadorai *The Substance of Politics* (1957) p 51

9 State Made Artificial According to the theory, the state is an artificial creation and the historical forces are completely overlooked The tendency to reduce the state to the level of a partnership (in business) can be severely criticised Burke poured his wrath on it by saying that society was something more than "a partnership agreement in a trade of pepper and coffee, calico or tobacco "

Merits Despite its drawbacks, the theory has been of immense value in modern times Its failure to explain the origin of the state does not lead to the forefeiture of its merits in other respects

The following are the merits of the theory

1 Concepts of Legal, Political and Popular Sovereignty Hobbes has clearly given us the concept of legal sovereignty, which finally led to Austin s Theory of Sovereignty Locke has advocated the cause of limited monarchy, and has given the idea of political sovereignty And Rousseau has put forth the principle of popular sovereignty The element of consent in the theory is of immense importance in the evolution of modern democratic government

2 Antidote to Oppressive Monarchy The theory served as an antidote to oppressive monarchy, and did much good to a world suffering from royal ab olutism The Glorious Revolution (1688) in England worked according to Locke's principle in favour of constitutional monarchy The effects of the Revolution were felt in other countries also Rousseau's idea of popular sovereignty gave suffcient food for thought in France, and became a background to the French Revolution "Nobody bothered whether the state really originated in a contract but millions were powerfully stirred by the idea that the people are the ultimate authority and the state is an expression of the popular will People, thundered Rousseau, were the sovereign and the rulers were merely the creations of the popular will ' [1] The ideas of Rousseau's Social Contract "appealed to the Americans and these are traceable in almost every American Constitution drawn up at that time "[2] The idea of the contract is to be found in the *Declaration of the Rights of Man and Citizen* drawn up by the French National Assembly in 1789

3 Germs of Separation of Powers Locke's theory contained in it the germs of the Theory of Separation of Powers scientifically expounded by Montesquieu later on

1 A Nandi *An Introduction to Political Science* (1955) p 76
2. R. N Gilchrist *Principles of Political Science* (1961) p 64

Decline of the Theory The Social Contract Theory declined owing to the following causes

1 New Attitude of Writers The attitude of writers changed and they adopted the historical spirit in the eighteenth century The approach of thinkers like Montesquieu and Burke adversely affected the Social Contract Theory Montesquieu's book *The Spirit of the Laws* (1748) indicated the beginning of the new positive attitude of writers Speculative attitude gave place to positive attitude

2 Darwin's Theory of Evolution Darwin's Theory of Evolution influenced the different branches of study, and political science was also affected The study of state and government was conducted in the light of the principle of evolution

3 Rise of New Theories The rise of new theories weakened the Social Contract Theory While the defects in the theory were criticised, the parts of the theory, which contained truth were given place in new theories The theory of political sovereignty was developed, and this was nothing but the elaboration of the idea of Locke The same can be said about the theories of legal and popular sovereignty

(For comparison of Hobbes, Locke and Rousseau see table in the summary)

MAIN POINTS

1 History and Meaning (1) Germs of social contract in ancient Greek thought Contract idea among Teutons Jews etc Contract idea of Manegold of Lautenbach Richard Hooker's thought Hobbes Locke and Rousseau contractualists (2) Theory says state result of contract by primitives

2 Hobbes (1) Lived in Stuart period Supported absolute monarchy Author of *Leviathan* (2) State result of contract State of nature terrible Anarchy ended by *contract Surrender of all rights except right of self-preservation Sovereign* not product of contract (3) Merits Scientific treatise Concept of legal sovereignty (4) Defects Contract theory absurd Hobbes too cynical contract incredible Complete surrender of rights unreasonable Sovereign made absolute and not party to contract Contract binding on future generations Society and state not distinguished Political sovereignty ignored

3 Locke (1) Contemporary of Hobbes But different ideas Sympathy for constitutional monarchy (2) *State result of contract State of nature not horrible* Man social and sympathetic Men had rights But laws not clear No judge So two contracts Social and Governmental (3) Defects Theory incredible Rights in state of nature absurd Location of sovereignty vague (4) Merits State and society distinguished Value of inalienable rights Limited monarchy Idea of political sovereignty Separation of powers foreshadowed.

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Social Contract Theory Comparison

Name of thinker	Number of con tracts	Between whom	Man in state of nature	Type of sovereignty	Type of govern ment favoured	Remarks
Hobbes 1588–1679 writer of the Levia than (1651)	One	Among primitives	Filled with fear and self-interest Life was terrible Condi tion pre-social	Legal	Absolute monar chy	Treatise rational and bri lliant Prepared ground for Austin s Theory of Sovereignty
Locke 1632–1704 author of the Two Treatises of Government (1690)	Two Social and Govern mental	(1) Among primitives (2) Between ruler and primitives	Condition not so bad as in Hobbes man had rights to life liberty and pro perty Condition pre-political	Political	Constitutional monarchy	Treatise justified the Glo rious Revolution 1688 in England Distinction bet ween state and government clear Government by consent
Rousseau 1712–1778 author of the Social Con tract (1762)	One	Among primitives	Man was a noble savage and there was idyllic happiness	Popular Sove reignty of General will	Direct democracy	Treatise gave basis for modern democracy Ins pired French Revolution

4 **Rousseau** (1) Lived in the 18th century great philosopher Sowed seeds of French Revolution (2) State result of contract Man happy and noble in a state of nature But gradually people became selfish and quarrelsome Therefore contract made people surrendered to general will which is a dictate of conscience and stands for the interest of all GW is coercive authority Law expression of GW (3) Merits Will creator of state Concept of popular sovereignty Champion of democracy (4) Defects Contract unreal GW vague Danger in absolutism of GW Law cannot be expression of GW

5 **Evaluation of S C Theory** (1) Defects Fails to explain origin of state. Incredible Historically false cannot move from contract to status (2) Merits Concepts of legal political and popular sovereignty Antidote to oppressive monarchy Germs of separation of powers

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CHAPTER 7

THE THEORY OF DIVINE ORIGIN AND THE THEORY OF FORCE

The theory of Divine Origin and the Theory of Force are other theories put forth to explain the origin of the state

I The Theory of Divine Origin

A *Meaning of the Theory*

State God-Created and King God's Deputy The Divine Right Theory says that the monarch, the agent or vicegerent or deputy of God is given power by God and is responsible to God alone, and not to any human agency It is the duty of the people to obey the orders of the king, who is above the people and the law While it is the religious duty of all to obey the king, it is a sacrilege to rebel against him In other words, the state is God's creation and people are ruled by God or by His representative Disobeying king is like disobeying God

B *Evolution of the Theory*

Very Old The Divine Origin Theory, which sets up a theocratic or God-ruled state is as old as the state itself In the past, it was believed that the power to rule had a divine basis and sanction, or that the king's authority was drawn from some unseen power In ancient states, there was a combination of religion and politics, and in certain states like the ones in ancient *Mesopotamia the rulers were priest kings*

The Greeks and the Romans did not support the theory, though religion had an important place in Greece and Rome To the Greeks, the state was a necessary social institution, which was not the result of divine will but of man's nature The Romans believed that the creation of the state was the work of the king and the people

Support of Scriptures The Theory had the backing of scriptures, epics or books held sacred by the people It can be known

from the *Old Testament* that Jews expounded the Divine Origin Theory and said that God appointed or dismissed, punished or killed rulers According to the *Bible*, "Let every soul be subject unto the higher powers For there is no power but of God, the powers that be are ordained of God Whosoever resisteth the power resisteth the ordinance of God, and they that resist shall receive to themselves damnation "

In the *Mahabharata*, the ancient epic of India, the king came as an answer to the prayer of the people to God to save them from destruction

In ancient times, the rise of Christianity, which weakened the Roman Empire was favourable to the theory Jesus said, " Render under Caesar things that are Caesar's ", and after Jesus, Paul followed the Master s line Christians following Paul became habituated to accept royal authority as divine in origin In the medieval period, the Islamic State had a theocratic basis

Divine Right of Kings The medieval period provided a very congenial climate for the growth of the Divine Origin Theory Writers used it to uphold the supremacy of the "infallible" king over the people The Divine Right of Kings became a power ful weapon in the hands of despotic kings, who were responsible to God alone, which euphemistically meant that they were responsible to non Pro-royalist scholars and theologians and the kings themselves built a theory that the king should be regarded as God ! James I, the first Stuart king ruled in Britain according to the principle, which became celebrated as the Divine Right of Kings James I, the author of *The Law of Free Monarchies* stated the following

(1) Kings derived power straight from God

(2) Kings had no legal obligations to the people

(3) Laws were products of king's authority, and they therefore could not be above the king

(4) Kings had power of life and death over their subjects

(5) Subjects should obey the king's orders, and even if he happened to be bad, they could not rise in rebellion against him as they were the "breathing images of God upon earth "

Sir Robert Filmer in his *Patriarch* supported the Stuarts with the help of the theory, and said that Hobbes was wrong in saying that the state was the result of a contract, when it was the product of divine will In early modern times, the Divine

Origin Theory took the shape of the Divine Right of Kings In the middle ages, the Church fully used the theory for its own interests, and when strong monarchies rose, the Divine Right of Kings found a full scope in them Like the Stuart Kings of England, the Bourbons of France also ruled by the Divine Right Theory Louis XIV, who exploited the theory fully said "I am the state" Bousset expounded his theory to support Louis's absolute monarchy

C Evaluation of the Theory

Defects The theory can be criticised as follows

1 Does Not Explain Origin The Theory of Divine Origin is a total failure as far as its efforts to explain the origin of the state are concerned The theory explains only political authority

2 Against Reason It defies reason, and hence it paled into insignificance in modern times

3 Against History It ignores the historical factors that were responsible for the origin of the state, and even as a theory to explain political authority it is a failure, as it depends on blind faith and dogmas

4 Anti-Democratic It is the worst enemy of democracy It is harmful to the interests of the people, and is highly favourable to selfish and irresponsible kings

Value The theory was of some value in the early days of civilization when the chief problem of the state was of maintenance of law and order for it readily evoked loyalty and obedience from people who were afraid of God and of His agent the king It protected the state from anarchy, the theory supported monarchy as nothing else could In the days when religion was as important as air or food, the theory gave a religious basis to political authority

Causes of Decline The theory declined, and became meaningless in modern times owing to certain reasons

(1) The rise of the scientific spirit and reason weakened it very much

(2) The great impact of the Social Contract Theory, the concept of limited or constitutional monarchy by Locke and the Doctrine of the General Will by Rousseau gave a rude setback to the theory

(3) The separation of the state from the church and the rise of parliamentary institutions also became deadly to the theory

(4) The Glorious Revolution of 1688, the American Revolution of 1776 and the French Revolution of 1789 were additional nails driven into the coffin of the theory

(5) The triumph of democracy in modern times sounded the death-knell of the theory However it has to be admitted that in some nooks and corners of the world, the theory still persists

II The Theory of Force

A Explanation of the Theory

Force Created State According to the Theory of Force, the state originated as the result of conquest of the weak by the strong " the beginnings of the state are to be sought in the capture and enslavement of man by man, in the conquest and subjugation of the feebler tribes, and generally speaking in the self-seeking domination acquired by superior physical force "[1] Force was the determining factor in the establishment of the authory of a tribal chieftain or king " From the more rudimentary political organisations it spread in succe sive steps to the more advanced Finally kingdoms and empires fought against each other and survived or died according to their strength "[2]

Power-Hunger and Self-Assertion Why do human beings use force for asserting their power and ruling over the weak? The answer is to be found in human nature itself Two instincts are very strong in man the thirst for power and the desire to assert oneself and dominate over others In the very order of nature, the strong dominate over the weak In primitive society people were quarrelling and fighting with one another With the formation of clans and tribes, struggles began among them and ended with the survival of the strongest In the final phase of the development of the state, the strongest individual established his authority over a certain area As we move from the lowest phase of the state to the highest, we see a struggle among individuals, among clans and tribes, among different kings, and in the final phase a terrific struggle among big emperors

The desire among the states today to fight with one another to uphold their ideologies and assert themselves at the expense of others is nothing but the manifestation of the urge in the primitive man to fight and dominate over his weak neighbours The state is the offspring of force, and the state is sustained by force

1 S Leacock *Elements of Political Science* (1932) p 32

2 R N Gilchrist *Principles of Political Science* (1961) p 76

Modern political thinkers and sociologists have rejected it As T H Green aptly says, "It is not supreme coercive power, simply as such, but supreme coercive power exercised in a certain way and for certain ends that make a state, viz exercised according to law, written or customary, and for the maintenance of rights" Writers speak of the survival of the fittest What is the meaning of 'fittest'? Does it mean physically fittest or fittest in general? "The idea that the brute struggle for existence leads to the survival of the fittest has been rejected by sociologists Such a struggle may lead to the survival of the physically strongest or the most cunning people But these people cannot be regarded as the fittest to live In a brute struggle for existence a man like Newton or Mahatma Gandhi would not survive"

MAIN POINTS

1 **Theory of Divine Origin** (1) State God-created and king God's deputy Evolved in ancient times Supported in medieval period Gave rise to Divine Right of Kings (2) Merit Evoked ready obedience Protection against anarchy (3) Defects Does not explain origin of state Against reason Against history Anti-democratic

2 **Theory of Force** (1) State originated by force. Power-hunger and self assertion Advocacy by Oppenheimer Jenks Treitschke Neitsche and Bernhardi (2) Merit Force one of the factors (3) Defects Other factors ignored Danger of might as right Noble qualities ignored Anti-democratic

The theory has been rejected by modern writers

CHAPTER 8

THE PATRIARCHAL AND THE MATRIARCHAL THEORIES

The Patriarchal and the Matriarchal Theories also try to explain the origin of the state

I The Patriarchal Theory

A Meaning of the Theory

Family, Clan and Tribe The Patriarchal Theory traces the origin of the state to the family The family provided the most natural and the simplest basis for the state in primitive societies According to this theory, the family with the father as head expanded into the clan, and the clan into the tribe, and finally, the state took shape At first, man, his wife, or wives and children constituted a unit known as the family, and in this, the authority of the father was supreme The family gave scope to the father to rule in the way in which the king did in the later days As Mac Iver aptly points out, the family contains "the curbs and controls that constitute the essence of government" In very ancient times, the father looked after the most elementary problems of the family viz protecting the family from the attacks of outsiders, providing food, looking after the family economy and so on In the family, when the children got married, new families rose The members of the new families, which were nothing but the expansion of the old family respected the head of the original family as patriarch

In course of time, many families, tracing their descent to the eldest male member of the original family became clans Each clan slowly expanded into tribe New tribes were formed, when some members of a tribe left the tribe and settled down in new areas thus establishing new tribes In ancient Greece, Aristotle spoke of the state as the expansion of the family The eldest male member of the family was the chief of the family, as the family expanded and several families rose in the village, the elder male

member happened to be the chief Thus the expansion took place from the father's authority to the king's power

Henry Maine's Argument The Patriarchal Theory got a powerful exponent in Sir Henry Maine, the author of *Ancient Law* (1861) and *Early History of Institutions* (1875), in support of his theory Maine furnishes examples of patriarchal families as found in the *Old Testament* and patriarchal families of ancient India, Greece and Rome He builds his theory on the basis of information given by sources like the *Bible* and the ancient writings dealing with customs, conventions and institutions of primitive communities As one who stayed in India as the Law Member of the Governor-General s Executive Council during 1862–9, Sir Henry had ample opportunities to study on the spot Indian institutions like the patriarchal family The environment in India must have profoundly influenced his mind After returning to England, Maine taught jurisprudence at Oxford

According to Maine, in ancient times, society was a collection of families and not a group of mere isolated individuals The unit of society was the family, whose eldest male member was the patriarch or chief The patriarch's power over the members of the family was absolute this anticipated the power of the king at *a later stage of social evolution* "*The flocks and herds* of the children are the flocks and herds of the father, and the possessions of the parent, which he holds in a representative rather than in a proprietory character are equally divided at his death among his descendants in the first degree, the eldest son sometimes receiving a double share under the name of birthright but more generally endowed with no hereditary advantage beyond an honorary precedence"[1]

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The most important feature of the family group or clan or tribe was the unbridled and absolute power in the hands of the eldest male member or patriarch over the other members The patriarchal family therefore had in it the germs of the state "The elementary group is the family, connected by common subjection to the highest male ascendant The aggregation of families forms the *gens* or House The aggregation of Houses makes the Tribe The aggregation of Tribes constitutes the Commonwealth "[1]

B Evaluation of the Patriarchal Theory

Merit Though the theory fails to explain the true origin of the state, it is not without importance It explains the value of male kinship, permanent marriage and paternal authority in the evolution of gens, tribe and state, and to that extent it has significance "The chief merit of the theory is that it points out what is undoubtedly a factor in state development the family Aristotle, while recognising the difference between a family and a developed civil community, likewise posits the relation of father to children as a fundamental fact in the origin of the civil society "[2]

Defects The following are the defects of the theory

1 **Patriarchal System Not Universal** Sir Henry Maine was wrong in saying that the patriarchal family, male kinship and permanent marriage were found everywhere in the world If examples of the power of the *pitru* in ancient India and the *patria potestas* of ancient Rome can be given in favour of the patriarchal system, examples as found in many parts of Asia and Australia can be furnished to prove that the patriarchal system was not universal Studies by several political scientists have proved that the system visualised by Sir Henry was not universal

2 **Tribe Primary Social Unit** The advocates of the Matriarchal Theory like J F McLennan, L H Morgan and Edward Jenks point out that the patriarchal family came into being at a later stage of the evolution of society and that the features of early society were quite different from those furnished by Sir Henry While Maine says that families expanded into clans and clans into tribes, writers like Jenks point out that tribe and not family formed the primary social group With reference to the primitive societies of Australia and Malaya Archipelago, Jenks

1 Quoted in A Appadorai *The Substance of Politics* (1957) p 36
2 R N Gilchrist *Principles of Political Science* (1961) p 82

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Male Kinship, Permanent Marriage and Paternal Authority "Male kinship, permanent marriage and paternal authority " formed *the essential features of the patriarchal society* As already stated above, expansion of families into clans and clans into tribes led to the formation of the state The members of the tribe were held together by the strong bond of common kinship In the patriarchal system in Maine s theory descent was to be traced through males and not females, and the father occupied the paramount position in the family The institution of permanent polygamous or monogamous marriage gave meaning to the family

1 Maine quoted in R N Gilchrist *Principles of Political Science* (1961) p 82

The most important feature of the family group or clan or tribe was the unbridled and absolute power in the hands of the eldest male member or patriarch over the other members The patriarchal family therefore had in it the germs of the state "The elementary group is the family, connected by common subjection to the highest male ascendant The aggregation of families forms the *gens* or House The aggregation of Houses makes the Tribe The aggregation of Tribes constitutes the Commonwealth "[1]

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speaks first about the tribe, then about the clan and lastly about the family In Henry Maine's gradation, the family comes first and the tribe the last

3 *Polyandry and Matriarchal Family* J F McLennan states that in the early communities polyandry and matriarchal family prevailed Descent in primitive societies could be traced through females, not through males Monogamy and patriarchal family came later than the matriarchal system

4 **Does not Explain Origin of State** The theory fails to cut ice in its chief purpose, that is, in explaining the origin of the state It seems to explain the origin of the family only, and very much falls short of explaining the true origin of the state Sir Henry wants us to believe that the evolution of the family and the origin of the state were so simple as he makes out in his theory Investigators like J G Frazer give a stern warning to writers who like to ignore many of the forces that played an important part in the evolution of human institutions and mention only one or few factors of their choice' Sir Henry has ignored several factors which contributed to the evolution of the state "He who investigates the history of institutions should constantly bear in mind the extreme complexity of the causes which have built up the fabric of human society, and should be on his guard against a *subtle danger incidental to all science—the* tendency to simplify unduly the indefinite variety of the phenomena by fixing our attention on a few of them to the exclusion of the rest "[1]

II The Matriarchal Theory

A Meaning of the Matriarchal Theory

Descent and Inheritance through Woman The Matriarchal Theory traces the origin of the state to the matriarchal family J F McLennan, the author of *Primitive Society* (1867), L H Morgan the author of *Studies in Ancient Society* (1878) and Edward Jenks, the author of *A History of Politics* (1900) are the leading advocates of the Matriarchal Theory "The evidence furnished by the marriage customs and family life of tribes like the Australian Kamilaroi, the American Iroquois, Algonquins and Hurons led the school of McLennan and Morgan to enunciate the theory that the original social group was the family clan in

1 Frazer quoted in R N Gilchrist *Principles of Political Science* (1961) p 34

which the woman was the pivot of the family system, and descent and inheritance were traced through her and relationship was determined by her.[1] In contrast to the authors of the Patriarchal Theory, they say that in primitive society kinship was traced not through the male, but through the female, and that the institution of polygamous or monogamous marriage did not prevail.

Polyandry and Sexual Promiscuity. The earliest primitive system was polyandry, a form of marriage in which a woman had several husbands. Polyandry prevailed among the Nairs of Malabar or the Todas of Southern India or the Tibetans. In the beginning, there was no family or social group as we have at present, and a man could not talk in terms of his wife and children. There existed in primitive society large groups or packs or hordes, which by no means represented the social groups found at a later stage of civilization. Sexual relations within the horde or pack were not regulated as they are today. There was sexual promiscuity. The Swiss writer J. J. Bachofen points out that women managed to escape from the chaotic condition of sexual irregularities by asserting themselves and enforcing their rule. While kinship through females is admitted, it is doubtful whether the female actually dominated and ruled over the male.

Totem Group Social Unit. The system of marriage as given by Jenks with reference to an Australian tribe may sound strange and fantastic to us. The totem group in Australia formed the real social unit among primitive men in the continent. An animal or tree, which was the totem, was the symbol of a particular group which we may call the totem group. A man could not marry within his totem. A group with snake as totem would not allow persons within the same group to marry. The same can be expressed better by saying that "snake may not marry snake and emu may not marry emu." It is very difficult to say how precisely the totem group came into being. Besides the exogamy rule of marriage, there was another rule, which may sound ridiculous to us. "The savage may not marry within his totem, but he must marry into another specially fixed for him. More than that, he not only marries [illegible] the specified totem, but he marries the wife of the women [illegible] totem in his own generation."

In such a society, it was [illegible] to [illegible] both the male partner [illegible]

[1] A. [illegible], The [illegible], p. 37

rather than an exception, and even tracing the father of a child was very difficult It has been said that "maternity is a fact, paternity an opinion" The salient features of such a society called the matriarchal society were

(1) Short or changing marriage relationships
(2) Establishment of maternal authority
(3) Property and power going to females
(4) Kinship through females

Contrast between the Patriarchal Theory and the Matriarchal Theory

Patriarchal Theory	Matriarchal Theory
1 *Exponent* Sir Henry Maine	1 *Exponents* McLennan Morgan and Jenks
2 Earliest family patriarchal i e father the head	2 Earliest family matriarchal i e mother the head
3 Permanent marriages whether monogamous or polygamous	3 Transient marriage relationships
4 Kinship traced through males	4 Kinship traced through females
5 *Examples* Patriarchal families in ancient India, the brotherhood of Athens and the *Patria Potestas* of ancient Rome	5 *Examples* Matriarchal families of Australia, Malaya Archipelago and Malabar in India
6 Families form clans and clans form tribes the expansion is from the smaller social unit to the larger, family the "seed-bed" of all larger units	6 The tribe the primary and the oldest social unit, the tribe disintegrates into clans, clans break up into families, patriarchal families emerge at a later stage of civilization, when man gave up hunting and settled down for agriculture

B Evaluation of the Matriarchal Theory

Merit The theory explains the importance of the family as an original link in the evolution of the state There is no doubt that matriarchal families existed in ancient times "The prevalence of queens in Malabar and the power of princesses among the

Marathas may be cited as an evidence in favour of the Matriarchal Theory"[1]

Defects Modern research has exploded the tall claims of the Matriarchal Theory, and it can be criticised on the following grounds

1 **Does Not Explain Origin of State** Like the Patriarchal Theory, it fails miserably to explain the origin of the State it tells us only about one of the factors, which contributed to the evolution of the family In dealing with the family, it shows that is studies social institutions rather than political As Willoughby puts it, both the Patriarchal and Matriarchal Theories are "social rather than political hypotheses"

2 **Not Better than Patriarchal Theory** Again, like the Patriarchal Theory, it tries to explain the evolution of the family, but in this respect also it fails to be quite convincing While rejecting the Patriarchal Theory as incorrect, it labours to tell us that the matriarchal family came first, and only in the later stage of evolution the emergence of the patriarchal family took place It fails to convince us that it is better than the Patriarchal Theory, which it wants to refute If the Patriarchal Theory is incorrect, so also is the Matriarchal Theory Just as the patriarchal families were never universal, so too were the matriarchal

3 **Ignores Complex Factors** Like the Patriarchal Theory, it seeks to explain the origin of the state in a very simple way, thus completely excluding the various factors which had the cumulative effect in bringing about the origin of the state

4 **Woman Weaker than Man** The theory fails to carry conviction, because it ignores the point that woman is weaker than man The existence even today of matriarchal families in some parts of the world cannot erase the fact of man's physical or biological superiority over woman How, in primitive society, woman asserted herself and established her rule at the cost of man is difficult to imagine

5 **Ability Rather than Kinship** Like the Patriarchal Theory this theory also is wrong in saying that kinship played the most important part in organized social life "In many primitive communities the head used to be elected on the principle of ability and not on the principle of kinship In other words, the ablest man and

1 R N Gilchrist *Principles of Political Science* (1961) p 84

not the eldest ascendant used to be elected to the position of headship in such communities"[1]

MAIN POINTS

1 Patriarchal Theory (1) Origin of state traced to patriarchal family Family has the curbs and controls that constitute the essence of government.

(2) Henry Maine upholds theory Depends on ancient sources like the Bible and on actual experience in India Examples of patriarchal families in ancient India ancient Greece and ancient Rome Male kinship permanent marriage and paternal authority Expansion of families into clans and clans into tribes

(3) Merit Explains the rise of the family a factor in state development

(4) Defects (1) Patriarchal system not universal (2) Tribe primary social unit (3) Existence of polyandry and matriarchal family (4) Does not explain origin of state

2 Matriarchal Theory (1) Exponents Mclennan Morgan and Jenks Origin of state traced through the matriarchal family Descent and inheritance through women Polyandry and sexual promiscuity Totem group social unit

(2) Merit Explains importance of matriarchal family in the evolution of state.

(3) Defects Does not explain the origin of state Not better than Patriarchal Theory Ignores complex factors Woman weaker than man Ability rather than kinship needed for leadership

1 A Nandi *An Introduction to Political Science* (1955) p 83

CHAPTER 9 THE HISTORICAL OR EVOLUTIONARY THEORY

Modern political studies have proved that the Social Contract Theory, the Theory of Divine Origin, the Theory of Force and the Patriarchal and Matriarchal Theories are incorrect The theories are speculative, they work on wrong assumptions, and lay emphasis on one or two of the factors that contributed to the origin of the state

The Historical or Evolutionary Theory also tries to explain the origin of the state

A Meaning of Historical Theory

State Product of Evolution The Evolutionary Theory says that the state is the product of a long process of evolution "The view held by the best modern writers may be described as the historical or evolutionary theory of the state By this is meant that the institution of the state is not to be referred back to any single point of time, it is not the outcome of any single movement or plan The state is not an invention it is a growth, an evolution, the result of a gradual process running throughout all the known history of man, and receding into the remote and unknown past"[1] As Garner points out, 'the state is neither the handiwork of God, nor the result of superior physical force, nor the creation of resolution or convention, nor a mere expansion of the family"

The state is the product of a slow but continuous historical growth, and it was evolved in the course of thousands of years owing to the free play of several factors One cause or factor or a few factors, as the other theories say, did not create the state A multiplicity of factors working through different periods, and areas created the state It is not possible to enumerate all the factors that contributed to the origin of the state, similarly, it cannot be stated when exactly the state began to function, and

1 S Leacock *Elements of Political Science* (1932) p 37

proved to be as important as air and water They felt that without it they could not exist Without worshipping their family deities and tribal gods, it was believed, there would be nothing but disaster When all the members of a tribe or family felt in the same way and developed a common attitude towards religion and common worship, the bonds were infinitely strenghened

Religion in ancient times was a sanction stronger than law today Any order coming through the religious channel would be obeyed, as it was backed by something which was supernatural "The sanction of the law was religion and, as it was the terrible aspect of religion that appealed to primitive minds, the breaking of laws was followed by terrible punishment As far as we can judge early societies were ruled with a rod of iron by the absolutism of religious law "[1]

Magician and Priest In all primitive societies, people believed in spells, incantations, superstitions and magic Religion at a certain stage in various communities was nothing but magic One well-versed in their study and one who could propitiate gods and spirits won eminence in society It was supposed that the magician was inspired by God The man, who was proficient in magic was feared and respected very much This explains the rise to power of the magician With the decline in the belief of the people in magic, owing to the discovery of the magician's fraud, the way was cleared for the rise of priests 'From the sorcerer, magician or medicine man developed the priest king Frazer gives a large mass of evidence to show how, after the sorcerers have raised them selves to power an intellectual revolution takes place The acuter minds of the tribe recognize the deception of the magicians and magic is replaced by religion "[2]

In very ancient states, the leader or the king exercised political and religious power In other words, he was a priest king The history of ancient Sumeria bears witness [illegible] of priest kings Religion was a jeal[illegible] magicians in the early days and of[illegible] later [illegible] Indian kingdoms, the *Purohita*, [illegible] priest [illegible] role in the affairs of the kingdo[illegible] Gr[illegible] kings were religious also, al[illegible] the[illegible] selves, and in[illegible]

1 R N Gilchr[illegible]
2 Ibid p 89

ages, the Caliphs, the successors of Mohammad the Prophet were political as well as religious heads The emperors in Japan were also high priests technically speaking

Spell of Religion It can be safely said that lives of men all over the world were under the strong influence of religion Religion could not fail to strengthen the bonds among the members of a clan or tribe Even today, in many of the states, the influence of religion is quite considerable That religion was a unifying force can be proved with reference to history The Jewish tribes, for instance, were bound together by their fear of and honour to their God Jehovah In ancient Greece and Rome also, religion was clearly a unifying factor The history of different countries shows the importance of religion at all stages of their growth Even in modern times, when secularism is valued immensely in most of the countries, religion continues to have its hold on the people of different states

3 Private Property Private property created interests, which only a politically organized society could protect In very ancient times, *there was plenty of land and the institution of private property* did not exist But as population increased and so also the pressure on land, people began to speak in terms of 'mine' and 'thine' With all the defects of private property, it should be noted, that because of it men went nearer and nearer to the state Territory is one of the important elements of state, and the basis for territory was provided by private property With the growth of private property, the important transition of men from hunting to agriculture should not be forgotten

Agricultural and Pastoral Kinship The growth of agriculture meant that man settled down at a fixed place, and gave up his habit of continuous wandering Side by side with agriculture, there was cattle-breeding The formation of an agricultural and pastoral kinship led to the establishment of the state Perhaps at a certain stage men were cannibals Cannibalism was given up, when there was enough food to eat, but another ugly institution slavery rose The growth of private propety, which included slaves also proved to be a valuable link in the process of state formation

Law The growth of private property also necessitated the use of law At first, law had a very crude form, and as people did not know the art of writing it was unwritten or customary Customary law, having the sanction of religion was implicitly

obeyed Gilchrist points out that before man knew the art of writing, law was of two types viz Dooms Law and Customary Law proper Dooms were judgements given by chiefs, whenever a need rose, and customary law emerged, when dooms were considered precedents in giving justice

4 Force Force was another factor, which played an important part in the evolution of the state In the study of the Theory of Force, it has been noted that "war begat the king", the strong killed the weal or exercised authority over the conquered The physically strongest survived Might was right (which unfortunately also continues to be the guiding 'principle of rulers of some states even today) in primitive society Hunters and herdsmen could understand only the natural logic of force, and would always settle their questions violently Hunters must have had some crude type of organization in which one was a leader, but there must not have been any territorial limits for exercising control Hunters and herdsmen by virtue of their superior physical strength must have overpowered communities of weaker hunters, and powerful nomadic tribes must have vanquished a community of weak cattle-breeders and peasants The superior force of the brute conqueror had to be recognized by the conquered

While the Theory of Force is grossly inadequate to explain the origin of the state, it contains grains of truth No one can gainsay the part played by force in the evolution of the state at some stage or other While private property gave an incentive to loot more or work more it also created the necessity to preserve private property or gave rise to the problem of defence Force had to be used in very ancient times for offence or defence, and leadership was necessary When conditions were unsettled, there was danger from other tribes or there was a continuous threat, a permanent leader was indispensable This leader used physical force to coerce his followers to remain under his control "In the patriarchal society or tribe, the nexus had been that of blood, but when a leader established his authority over a territory by conquest, over a people with w o he had -relationship all those who lived in that beca cts Blood was no longer the essenti unit be noted that no state can exist with use desire for a state, which abjures fo is the

impossible The factor of force with other factors contributed to the evolution of the state

5 Political Consciousness Political consciousness was another vital factor in the evolution of the state By political consciousness, we mean the awareness of common purposes and ends to be realised through political organization One cannot compare political consciousness of the remote past to the political consciousness of modern times It is difficult to say when exactly political consciousness first manifested itself In the beginning it must have risen in the minds of a few people, and gradually it must have spread among an increasing number of people The rise of consciousness that the problems of maintaining internal order, protecting life and property, facing external aggression, and of social and economic development can be properly solved only by an organised state acting through the government went a long way in evolving the state The common problems of all, which could be looked after by a military leader or tribal chief or king must have made people say, of course silently, that they were willing to obey the orders of the leader

Though kinship, religion, private property and force have to be given importance that is due to them, the supreme significance of political consciousness, however weak and silent it might be in ancient times has to be appreciated There cannot be a state, unless people want it, and unless they are prepared to obey the orders of a superior power The psychological factor of common consciousness has to be given a very high place in the evolution of the state No state can exist without the consent and cooperation of the people "Both instinct and purpose innate impulse and deliberate choice have played a role in the development of the state"[1]

C Conclusion

Many Factors Thus the state originated and developed through a plurality of factors The origin of the state is explained by four or five basic factors but actually the evolution of the state did not take place in such a simple way in the course of a year or two or even a thousand years All these main factors along with the less important ones might have operated concurrently or one or two might have worked during a given period

1 A Nandi *An Introduction to Political Science* (1955) p 83

And moreover, the pattern of the evolution of the state must have definitely varied from one part of the world to the other It has to be repeated that many minor factors also must have played a great role in the construction of the state M Ruthnaswamy correctly speaks of the significance of religion, custom and law, institutions, government, civilization and culture, ideas and industry in the rise of the state in his book *The Making of the State*

MAIN POINTS

1 **Meaning** State the result of various factors spread over a long time and not of one factor only State product of a long process of evolution.

2 **Main Factors** (1) Kingship Blood relationship and common ancestorship (2) Religion Magic and sorcery Animism totemism polytheism monotheism and ancestor worship Importance of magician and priest (3) Private property Agricultural and pastoral kinship Rise of customary and written law (4) Force. War begat king (5) Political consciousness Awareness of common purposes and ends

3 **Conclusion** Many factors created state

Section IV

THE HISTORICAL GROWTH OF THE STATE

CHAPTER 10

THE STATE IN ANCIENT TIMES

The earliest state in a crude form was the tribal organization, in which power was in the hands of a chief

Tribalism to Statehood It is difficult to fix the origin of the state and to trace its historical growth, as the process of evolution was not simple "The idea held by many writers that political developments tend inevitably to pass through regular and clearly defined cycles is not borne out by historical facts "[1] A great change came over human beings when they moved from the tribal stage to the stage of the state The transition took place, when human beings ceased to be organized in tribes, but were divided into groups like nobles, free men and slaves With the disappearance of tribal organization, towns and cities sprang and the machinery of a central government was established Custom and tradition yielded place to written law, and presentation of gifts and voluntary contributions gave place to taxation In various parts of the world, most of the tribes, not all tribes, reached the stature of the state Some tribes wished to remain as they were, and refused to be bound by the normal laws and regulations of the state The Red Indians of America and the Santals and the Khasis of

1 R G Gettell *Political Science* (1956) p 76

India can be cited as examples of tribes, which continued to cli[illegible] to tribalism long after the establishment of the state

Though the title of the Section is 'the Historical Growth [illegible] the state', strictly speaking, the history of no single state as su[illegible] can be given, there can be only the history of states in genera[illegible]

In this chapter, we deal with the early empires of the East the ancient city-states of Greece and the ancient Roman empire

A The Early Empires in the East

Earliest States Perhaps, the state had very humble beginn[illegible] ings in the fertile valleys of the Nile in Egypt, the Euphrates an[illegible] the Tigris in Mesopotamia, Sindhu and the Ganga in India an[illegible] the Yang Tse-kiang and the Hoangho in China Wandering tribe settled down on river banks, as plentiful supply of water mad[illegible] living comparatively easy One cannot be quite dogmatic that th[illegible] earliest states in the world were found in the Nile Valley, as th[illegible] honour of being the first perhaps can be claimed by the state[illegible] that sprang in Sumer and Akkad in Mesopotamia It is al[illegible] probable that the earliest states rose in the plateaus of Mexi[illegible] and Peru in South America

Rise of Empires In course of time, the small kingdoms flowered into big empires, which were ruled on the basis of wealth and military power Wealth was concentrated in the hands of [illegible] few, who ruled by virtue of their military strength Wealth created power and then again power produced further wealth for the enjoyment of the few Most of the early states cared mor[illegible] for slave-driving and tax-collecting than for serving the needs of the people They made the people bend before their will by resorting to very harsh and cruel methods Some of the early empires were cruelly despotic

The mighty emperors of the East Thutmose III of Egypt Hammurabi [illegible] Babylonia Sennacherib of Assyria Nebuchadnez ar the Great of Chaldea and Emperor Shi Huang-ti of China based their power on the strength of th[illegible] sword it would be however wrong to suggest that considerations other than th[illegible] of holding the empire by threat and brute force only were not there Some [illegible] the early rulers of history were quite benevolent but the fact remains that the[illegible] were so by their own choice and not bec[illegible] le forced them to be goo[illegible] Mostly empires were [illegible] ly orga[illegible] thing depended upon th[illegible] personality and cha[illegible] emper[illegible] [illegible] courtiers Stabil[illegible] which characterises [illegible] ly absent in the[illegible] days Conquests wer[illegible] again an[illegible] conquered had to [illegible] For [illegible] of a re[illegible]

degree of stability and good administration one has to look at the Achamenid Empire of Darius the Great of Persia (sixth century B C) and the Mauryan Empire of Chandragupta and Ashoka (fourth and the third centuries B C) in India Thus the first type of the state which rose in the historical times was the kingdom or empire in the Orient As far as political science is concerned, the Oriental kingdoms or empires taught the people valuable lessons of obedience to authority Several writers particularly from the West are reluctant to admit the fact that the Oriental states taught much to the world Centuries before the Greeks and the Romans had built their states the East had to its credit the construction of big kingdoms and empires and the Greeks and the Romans must have learnt much from them

B The City-States of Greece

Importance of City-States Political scientists attach great importance to the city-states of Greece, which though small, conducted many experiments in governance and left their indelible marks on the pages of history and political science The credit of developing systematic political thought for the first time goes to Greece The Greeks taught much to the contemporaries and to the succeeding generations, and even today the study of political science cannot but begin from Socrates, Plato, and Aristotle The Greeks used the term *polis* for their city-state, strictly speaking *polis* was a fortified position on a hill to which the inhabitants of the surrounding country could flee for refuge at the approach of an enemy

The features of the city-states were striking Geographical and other factors made them small but their achievements were indeed magnificent The individual was intimately bound to the city-state and was quite concious of his duties towards it and jealously guarded its independence The Greeks paid great attention to the growth of intense political activity in a community, and thought of entering into life partnership with the city—state In the Greek world of many independence-loving city-states the growth of a mighty empire was not possible Each city-state had its own walled town its own government laws gods, customs and institutions Athens Sparta Corinth Argos and Thebes were some of the important city-states Among the city-states Athens was the greatest In the days of her great statesmen Pericles she reached the apogee of her power and glory and such were her achievements in all fields that she came to be called the School of Hellas Her political achievements and traditions of direct democracy remained unrivalled

Each of the city-states was proud of its own government traditions and achievements Each one of these was capable of being taken in at a glance both by eye and mind and in size of population conformed to Aristotle s standard or was very near it Life in the city-state was intense and all the citizens gave their body and soul to the city Each citizen served his state as a soldier judge and member of the governing body All knew the principle that the interests of the state came first and those of the individual next The Greek

In his passion for the glorification of his state thought in terms of a life partnership with the city-state Citizenship to him was like a full time profession this is in contrast to the attitude of those living in modern states and who take to their duties of citizenship lightly To the Greek it was impossible to reach the highest life apart from the city-state

Greek City-States and Modern States It is worthwhile drawing a comparison between the ancient Greek city-states and the modern states

(1) Greek states were city-states, and hence were small in size and population, on the other hand, modern states are large and have big population

(2) Activity in ancient city-states was intense, all citizens gave the best part of their time for the development and glorification of the state All people were not citizens, and the institution of slavery was recognized as necessary for giving leasure to citizens In the modern state, every member is a citizen, and the institution of slavery does not exist

(3) In glorifying the city-state, the individual was supposed to glorify himself, the various fundamental rights which are found in modern states were absent in Greek city-states In the modern state, the rights of a person are clearly recognized, and there is a clear difference between private law and public law The citizen in the modern democratic state has a will of his own, and can develop his personality as he likes quite independent of the will of the state

(4) The Greeks gave too much of importance to the capital and took pride in calling themselves after their capitals like Athens in Attica, but people in modern states do not do so

(5) Greek democracy as found in city-states like Athens was direct, but modern democracy is indirect or representative

(6) Greek city-states attached exaggerated importance to themselves, their ideas and their institutions to a dangerous extent and developed almost a fanatical outlook The people of one city state disliked those of the other For instance, the Spartans and the Athenians were mortal enemies, and desired to annihilate each other The Greeks were incapable of thinking about the Hellenic world as a whole At the most, they could conceive of forming loose leagues or confederations

(7) Modern states conform themselves to the principles of international law, but there was nothing like that in the Hellenic world

Merits The ancient Greek city-states left a very rich legacy because of their sterling merits

(1) Within the small compass of the city-state, the Greeks were able to achieve a measure of unity, which can never be dreamt of in modern states The very features of the city-state facilitated homogeneity and consolidation The citizens felt intensely for the state, worked hard for it and reached dizzy heights of patriotism

(2) Though the point that the Greeks achieved unchallengable heights in all fields of activity is not germane here, it is worth noting that in the political field, sports, literature, art, philosophy, oratory, history and other subjects, the Greeks put on their works the stamp of their genius and idealism

(3) City-states like Athens conducted different political experiments like monarchy, aristocracy, oligarchy, tyranny and democracy And Greek philosophers like Socrates, Plato and Aristotle placed before the world the priceless gems of their thoughts

Drawbacks Despite their solid achievements in various fields, all was not well with the Greek city-states and some of their drawbacks were too serious to be ignored

(1) The Greeks developed a narrow or parochial outlook, and their vision did not go beyond the frontiers of the city-state Such an attitude bred intense contempt and hatred for other states and the result was disastrous With all their idealism, the Greeks did not realise the value of union The Greeks were nowhere, when big powers threatened their very existence, and they fell an easy prey to Macedonia and Rome

(2) It passes one's understanding as to how the ugly institution of slavery was built and nursed even by the best city-states Even great philosophers justified its basis by their theories

(3) The city-states were small, and there was limited scope for their expansion

(4) The Greeks imposed no limit on state control They made no distinction between the state and the community and, as Mac Iver observes, the failure to do so ' left Athenian liberty itself a monument broken and defaced " This defect of the city-state looks most depressing to the lovers of freedom and democracy

C The Empire of Rome

If the Greeks gave quality, idealism and genius through their small city-states, the Romans achieved much through their mighty empire, which lasted for 500 years They distinguished themselves

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If the Greeks gave quality, idealism and genius through their small city-states, the Romans achieved much through their mighty empire, which lasted for 500 years They distinguished themselves

as great conquerors, political organizers, statesmen, law-givers and creators of peace and order

Monarchy Rome began her great career as a city-state, with monarchy as form of government, which lasted during c. 753-510 B C The king known as *rex* was elected His power was technically unlimited in peace and war He was the supreme judge and commander-in-chief He was also regarded as the patriarch and chief priest But he was supposed to consult the Senate or Council of Elders consisting of nearly 300 members Then there was the *Comitia Curiata*, the Assembly of the people The people were organized into thirty *curiae* each of which was a religious and political group held together by corporate life, common worship and customs Power was in the hands of the rich, who were known as Patricians In the later days of monarchy, the Plebeians who were powerless and unprivileged agitated, and to placate them a new body known as the *Comitia Curiata*, was created While the *Comitia Centuriata* was a Patrician body the *Comitia Curiata* gave seats to the Plebs also, but the Plebs formed a minority in it

Monarchy was overthrown in 510 B C, and Rome became a Republic

Aristocratic Republic The Roman Republic was not a people s republic it was Patrician or aristocratic In theory, the government was democratic, but in actual practice it was an oligarchy Executive power civil and military was in the hands of two annually elected Patrician Consuls, who could check each other In the Republic, the Plebs who were powerless and suffered from very great handicaps agitated strongly for their rights The practical-minded Patricians thought that to save the skin of their teeth it was necessary to give concessions to the Plebs By degrees the demands of the Plebs were granted, and most of their political, social, economic and other grievances were redressed

Important Officials Below the two Consuls there were several executive officials (1) Six Praetors, who acted as judges, (2) Two Censors who were in charge of finance and census (3) Four Aediles who looked after public buildings, water supply, markets and public records (4) Eight Quaestors, who were paymasters of the army and revenue collectors (5) Ten Tribunes, who protected the interests of the Plebeians

Important Bodies The Senate consisting of 300 Patricians was the most powerful body The other bodies were (1) the

Comitia Curiata, (2) the Comitia Centuriata, (3) the Comitia Tributa, and (4) the Concilium Plebis

Checks and Balances A very important feature of the Republican Constitution of Rome was the system of checks and balances, which prevented concentration of power in the hands of any official or body For instance, the power of each consul was checked by the other, and the tenure of office was one year only Moreover they were controlled by the Senate and the people While each Consul was given the power to veto there was a proper safeguard against the abuse of this power Similarly, the Censors, Aediles, and other officers checked each other The Tribunes, who acted as the champions of the ordinary people, could not exceed their authority, for their power too was limited by their collegiate character, and their right to veto the acts of the Consuls was not unrestricted

Rise of Emperor The selfishness of the Patricians, the excessive reliance on the army for seizing and maintaining power, the rise of politics of power plots, conspiracies and murders, the terrific struggle for power among top-ranking leaders and the utter incompetence and helplessness of the Senate crippled the Republic With the seizure of power by Julius Caesar, the death-knell of the Republic was sounded In 27 B C Augustus set up his Principate The Senate, which was quite aware of its own weaknesses and failings conferred on him different titles, the most important of which was *Imperator* (Emperor) The rise of Augustus as Emperor formally announced the fall of the Republic

Legacy of Rome The Romans successfully demonstrated to the world how to rule over a vast empire populated by people with varied culture , customs and languages It was Rome that gave the world the first well-organised and well-governed empire on a large scale Though there were empires earlier too, none of them could compete with the Roman Empire either in its size or efficiency

MAIN POINTS

1 **Earliest States** Tribal organisation earliest form of state Rise of cities and centralised government Early empires in the East Egypt Mesopotamia India and China

2 **City State of Greece** Small in size Intimate relationship of citizen with state Intense political activity No difference between society and state and state and government Athens and Sparta leading city-states

3 **Empire of Rome** Monarchy in early days Rise of Republic Power of Patricians Senate and other bodies Principle of checks and balances Death of Republic and rise of Emperor Rome s contributions in the political sphere

CHAPTER 11

THE MEDIEVAL STATE

The death of the Roman Empire towards the end of the fifth century A D witnessed complete disorder and chaos in Europe Conditions were favourable to the growth of the feudal state Such a type of state rose in the Dark Age (6th century A D—10th century A D), and came to an end in the early modern times

In this chapter, we shall study the feudal state, the medieval church and the Holy Roman Empire, and the medieval city-states

A The Feudal State

Origin It is very difficult to say how the feudal state originated It seems, it grew spontaneously to meet the needs of the chaotic times, and no individual or government delibrateely planned to have a feudal structure When the Roman Empire disintegrated, power must have fallen into the hands of a large number of nobles in the different parts of Europe, and each one of them must have been in a position to afford protection to the ordinary people in the neighbourhood Around the personality of the noble, a feudal community developed The feudal state must have begun in a very dim form in the centuries following the destruction of Rome, when ordinary people, who were in need of protection for themselves and their property went to the neighbouring chief or landlord and surrendered themselves to him, and he in turn agreed to protect them under certain conditions Some sort of customary contract was made, and this became the basis of feudalism

While in the Roman empire sovereignty could be easily located in the emperor, it was difficult to say where sovereignty rested in the feudal state The vassal obeyed his lord and not the king directly The connection between tenants-in-chief and sub-tenants was direct and that between the king and the sub-tenants indirect.

Feudalism reached its climax from the eleventh to the thirteenth centuries

Features of Feudalism The important features of feudalism were the following

(1) It was a political, social and economic structure based on *land tenure*

(2) The giver of the land was the lord and the receiver was the vassal The king became the lord (the greatest in the country) when he parcelled out lands or estates known as fiefs or feuds (from which 'feudalism' was derived) among the nobles, who became his vassals or tenants-in-chief These nobles subdivided the land among their vassals or sub-tenants At the bottom of the feudal social structure were serfs, who were not slaves, but were all the same bound to the soil

(3) There were personal bonds between the lord and the vassal The vassal had to render certain services and make certain payments to the lord, and the lord was bound to protect him The tenants-in-chief or big estate-holder enjoyed full or partial rights of sovereignty over the people living within his jurisdiction Some of the feudal barons exercised even the right to coin their own money In brief, the baron was like a small king by himself

In feudalism, the most important point was that "the individual's relation to land tended to determine his political rights and duties " It was essential to have land, for the landless people had no status and privileges, this explains why a landless man tried to find a lord to get protection and a place in the feudal structure

We may briefly mention the merits and defects of feudalism

Merits The merits of feudalism were the following

(1) The very fact that it rose to meet a keenly felt need for law and order showed its usefulness When the Roman Empire broke into pieces, it was the feudal state that saved Europe from complete ruin It brought about strong feelings of per onal loyalty based on the possession of land

(2) The feudal structure solved political, social and economic problems of European countries

(3) Feudalism prevented the kings from being autocratic, as nobles developed self-reliance and personal independence

Defects Though feudalism did well for some time, gradually it became a curse The following were the serious defects of feudalism

(1) The central government was weak, and the feudal barons did whatever they liked It seemed that absolute monarchy was far better than the autocracy of a dozen nobles in a country

(2) War was the law of the feudal state Each baron maintained an army with which he was expected to help the king whenever need rose but most of the barons turned traitors, and rebelled against the king The barons wasted their time and energy in fighting with one another Thus peace was disturbed, and anarchy was promoted

(3) The ordinary people were thrown to the tender mercies of feudal lords Particularly the condition of serfs was most miserable

(4) People living in feudal manors developed a narrow local outlook The manor was a small world in itself, and most of the people living in it hardly knew what was beyond its frontiers. Thus feudalism was a clear impediment to national unification

(5) The Church had extensive landed property and wealth in the feudal structure and it was in favour of continuation of feudalism

B The Medieval Church and the Holy Roman Empire

While the forces of feudalism were promoting fissiparous and separatist tendencies the Christian Church and the Holy Roman Empire proved themselves to be strong unifying factors A brief reference to the role of the Church and the Roman Empire will not be out of place here

Power and Influence of the Church The Roman Emperor Constantine became a Christian around 337 A D and towards the end of the fourth century A D Christianity had the proud place of being the only recognized religion of the Roman Empire When a political vacuum was created in Europe after the fall of Rome Christianity tried to fill it up with a good measure of success The Church copied from Rome the method of organization on a very large scale ' In the Middle Ages the Church was not a State it was the states, the state or rather the civil authority (for a separate society was not recognised) was merely the police department of the Church '[1]

Universal Christian Society In the medieval period, the idea of a universal Christian society prevailed, this society was to be governed by the spiritual authority of the Church and the temporal authority of the so-called Holy Roman Empire While the friction

1 Figgis quoted in E Asirvatham *Political Theory* (1957) p 69

and jealousy between the Popes and the Emperors showed that all was not going on according to the ideals of Christianity, still the two authorities rendered valuable services to the European community

Services of the Church The Church rendered great services to Christian society

(1) The Church was well organized and it functioned like a state By and large there was unity within itself, and it tried to promote unity in the Christian society

(2) The long arm of the Church could reach the people of any country in Europe Political and geographical frontiers were no obstacles to the exercise of Church authority There was uniformity in Church law, which all Christians had to obey The Church had its own courts through which law was administered

(3) The moral influence of the Church was great whether it was on kings or on the ordinary people The Church regulated family life, and upheld the sanctity of marriage

(4) Even in the economic sphere, the Church influence was considerable The Church held extensive lands It expressed itself in favour of fair prices, and condemned usury as un-Christian

(5) The Church spread learning and education everywhere Most of the learned men were churchmen The Church influence was the strongest in schools and universities Without the Church no education was possible

For a long time, particularly when the Holy Roman Emperors were weak and exceptionally powerful Popes like Gregory VII (1073-85) and Innocent III (1198-1216) were in authority, the Church had almost no rival

Decline of Church Authority The Church however over reached itself The excesses of the Church, the immorality and licentiousness of the clergy including even the top-ranking one, great love of power and pelf, the Babylonish Captivity (1303-1373), in which the Pope was a prisoner of the French King and the Great Schism (1378-1415) the challenge given by original writers of independent outlook, and lastly the Protestant Reformation were responsible for pushing down the Church from the dizzy heights of its power

Services of the Holy Roman Empire The services of the Universal Church were matched by those of the Universal Temporal State called the Holy Roman Empire Charlemagne (768-814 A D) was crowned Holy Roman Emperor by the Po

Christmas Day in 800, and thus the birth of the so-called Holy Roman Empire took place The Empire of Charles the Great included the territory covered by the modern countries of Italy, France, Switzerland, Germany and Hungary Really speaking, the title Holy Roman Emperor was a myth, for Charles was not a descendant of the Roman emperors, and his empire served no holy purpose as such Hence, it was neither holy nor Roman "The Holy Roman Empire, even in the palmiest of its days, was little more than a ghost It had no real authority behind it "[1] Even then the very myth was of the deepest significance, as it commanded the loyalty of people in a vast empire, promoted unity, and stood for the ideal of the unity of Christianity The Holy Roman Empire served the same purpose as the Church though in a different way "Essentially, as Bryce has pointed out in a classic analysis, the Holy Roman Church and the Holy Roman Empire were one and the same thing, the universal Christian society in two aspects as divine and eternal it had for its head the Pope to whom souls had been entrusted, as human and temporal the Emperor, commissioned to rule men's bodies and acts "[2]

The Holy Roman Empire had to face several vicissitudes of fortune In 1806 Napoleon overthrew it, and Emperor Francis II resigned his imperial authority

Protestant Reformation The Renaissance and the Protestant Reformation, particularly the latter did much to undermine the authority, which the Universal Church enjoyed for several centuries John Wycliffe, John Huss and Martin Luther, who exposed the weakness, corruption, immorality, worldliness and false teachings of the Church deserve mention in political science, because they also spoke in favour of individual conscience and individual liberty, which are the concern of the political scientist. The direct approach to God without the intervention of the priest about which these great men spoke went a long way in promoting individualism and nationalism

C Medieval City-States

How Towns Grew The barbarians destroyed the towns and cities of the Roman Empire, and for a long time towns worth the name could not be found in Europe But in the eleventh century, Europe saw the emergence of towns Some of the towns

1 E Asirvatham *Political Theory* (1957) p 69

2 A Appadorai *The Substance of Politics* (1959) p 219

were great centres of industry and commerce With the decline of feudalism and the desire of people to free themselves from feudal control, many prosperous towns rose In many cases, townsmen paid a lump sum of money to the feudal lord and got their freedom through a charter, which was like the birth certificate of a town

Features of Towns The freedom or autonomy given by charters was not the same for all towns Keeping petty details aside, we can say that generally there were two types of towns (1) a larger class of towns enjoying particular rights under the feudal lords, (2) a smaller class of towns, which not only had certain privileges, but were also 'free' and were self-governing bodies As the second category of the medieval towns enjoyed self-government, they were fit to be called city-states

In the medieval towns, guilds played a very important part It may be pointed out that the medieval towns were not like the modern towns, and to our eyes they would look like villages But towns like Cologne, Troyes, London and Norwich were relatively impressive Italian towns like Genoa and Venice, German towns like Augsburg and Nuremberg and Flemish towns like Bruges and Ghent became very rich

Italian Cities In the growth of cities, Italy was at the forefront, and she had about two hundred cities towards the close of the thirteenth century Florence, Pisa, Venice and Genoa were the most important Italian cities Cities like Florence were like the ancient Greek cities, and there was intense cultural and commercial activity in them They also conducted significant political and constitutional experiments But like the ancient Greek cities, they were fighting with one another

Parliament One of the greatest achievements of the European polity of the medieval period was the summoning of parliament This point is of great interest to the political scientist dealing with democracy Whenever kings were in financial difficulty, they called assemblies, in which sat representatives of cities and towns Parliaments rose in countries like England, France and Sweden In 1295 King Edward I of England summoned the Model Parliament, in which sat not only the lay and spiritual lords, but representatives of the lower clergy, two knights from each shire and two representatives from each town and borough

Medieval parliaments, unlike the modern ones, were not national assemblies of representatives, but parliaments of "estates"

CHAPTER 12

THE MODERN STATE

Feudalism came to an end around the fifteenth century However, responsible government did not rise In various European countries absolute monarchy emerged But after some time, there was strong reaction against royal absolutism The Glorious Revolution in England (1688), the American Revolution (1776), the French Revolution (1789) and the Latin American Revolutions (1800–25) were the clear manifestations of the new age against the exercise of arbitrary and unbridled power by kings As monarchy got a setback with the great success of these revolutions, the forces of nationalism and democracy received a great impetus in the nineteenth century

A Absolute Monarchy

The Renaissance, the Protestant Reformation, the geographical explorations and other factors, which brought about a transition from the medieval to the modern times did not favour the rise of democracy, but made conditions favourable for the rise of absolute monarchies People in England who had tasted the bitter fruits of feudal war and anarchy in the medieval period were waiting for the governance of a strong king, who could break the backbone of the nobles and give them much needed peace and security, stability and prosperity The Tudor kings could rule with almost unbridled power during 1485–1603 In the next period, however, the wings of the absolute Stuart kings ruling by the Divine Right of Kings were clipped by Parliament

In France, conditions were most congenial for the growth of the absolute power of Louis XIV (1643-1715), who declared, " I am the state ' Louis XIV provided a model to the absolute monarchies of Austria, Prussia and Russia

representing the interests of nobles, clergy and common people Moreover, people were not at all very keen to contest elections, and sometimes the King's officers themselves had to choose a 'suitable' candidate as member of parliament In spite of their drawbacks, medieval bodies sowed the seeds of modern parliaments

Legacy of the Middle Ages Generally, there is a tendency to underestimate the contributions of the medieval period But a close study shows that it was 'a formative' period politically speaking

The political legacy of the medieval period was

(1) The two unifying forces of the Universal Church and the Holy Roman Empire made it clear that it was the duty of the state to give justice and uphold righteousness Medieval political literature spoke of the ruler as "God's minister for the punishment of the wicked and the reward of the good"

(2) Law was regarded as the embodiment of justice

(3) The king and the people were bound by mutual obligations If the king was bound to give justice, the people were under an obligation to obey his orders The oaths taken at the coronation ceremony testified to the importance of mutual obligations It was implied that the king forfeited his right to rule, if he oppressed the people and neglected his duties

(4) The idea of summoning parliament was a great gift of the middle ages

MAIN POINTS

1 **Origin** The feudal state originated in the Dark Age spontaneously Great need of protection Lord-vassal relations

2 **Features** (1) Political social and economic structure based on land tenure (2) King biggest lord tenants-in-chief sub-vassals and serfs Loyalty service and payments

3 **Evaluation** (1) Merits Gave peace and order Solved political social and economic problems Prevented rise of autocracy (2) Defects Central government weak Civil war and lawlessness Sufferings of people particularly serfs Narrow outlook Church also powerful

4 **Medieval Church** Universal Christian society Services of the Church Gave unity Upheld family marriage and morals Fair prices Condemned usury Spread learning Decline of Church power owing to love of power and money Renaissance and Reformation weakened Church

5 **Holy Roman Empire** Empire of Charlemagne HRE a myth of great value

6 **Medieval City States** Growth of cities Grant of charters Autonomy Role of Italian cities

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B The Revolutions

Equality, Popular Sovereignty and Nationality Revolutions had a profound effect on the course of modern political science They rocked the age-old *foundations of monarchy and absolute* power While the *American revolutionaries shouted, "No taxation* without representation", the French revolutionaries proclaimed, " Men are born and always continue free and equal in respect of their rights " The principles of equality, liberty, popular sovereignty and nationality were firmly established in modern times

Industrial Revolution The Industrial Revolution (1750–1850), which began in England spread all over Europe and America and then everywhere else in the world also had a great effect on the state Industrial capitalists, the products of the Industrial Revolut tion seized political power or brought governments under their influ ence and indirect control The merciless exploitation of workers by capitalists all over the world and the unequal distribution of wealth in society led to a struggle between the haves and the have–nots Socialism and communism rose as a reaction against selfish capitalism

C Democracy

Triumph of Democracy Democracy is the product of modern times Movements like the Renaissance and the Protestant Refor mation favoured the growth of fre h ideas ar d the mind of Europeans was emancipated Once freed from the shackles of the dogmas of the medieval period, people got self-confidence and thought in terms of liberty and democracy England, which gave the mother of parliaments demonstrated to the world that it was possible to have good government with power in the hands of the people's representatives The USA also chose the democratic path, so did France though progress in France was not so smooth as in England and the USA Several European countries also set up a democratic system of government The idea that an inferior democratic government was better than a superior absolute monarchy gained ground everywhere

Triumph of Nationalism In the nineteenth century, great movements of national unification took place in countries like Germany and Italy In other countries, national unification had taken place much earlier Even in the days of the Universal Church and the Universal Empire national states had risen in England, France and Spain Absolute monarchs did much to promote

national unity Tudor rulers like Henry VII, Henry VIII and Elizabeth in England made feudal anarchy a thing of the past, promoted peace and order, and brought about national unity Nationalism became a passion everywhere and people were in favour of establishing national states

However, as time passed, the ugly aspects of perverted war-hungry nationalism revealed themselves, and aggressive nationalism easily shaded off into imperialism Imperialism became the parent of many inter-state disputes and led to global wars German nationalism was built on militarism Owing to many causes, including aggressive nationalism and imperialism, World War I (1914-18) took place President Woodrow Wilson of the USA said that the war was fought to uphold democracy and the principle of self-determination

D Modern Empires

Imperialism and Democracy In the nineteenth century, in which nationalism and democracy emerged, big empires took shape While on the one hand the Western countries were talking eloquently about individual liberty, equality and fraternity, they conquered the economically backward peoples of the world The peoples of Africa and Asia became the subjects of the empires built by European powers like Britain, Spain, France, Portugal, Holland and Germany Thus, there was the strange and inevitable co-existence of democracy and imperialism, the former for advanced countries and the latter for backward countries These empires were shattered to pieces in the twentieth century and most of the subject peoples have now attained independence

E Dictatorship

Setback to Democracy The problems of the post war period (1919-39) could not be solved satisfactorily by democratic governments in spite of their tall claims The carving of new nation states according to the principle of self-determination created many problems, which defied solution Democracies were slow-moving and their leaders lamentably lacked true enlightenment, initiative, drive and decision Where democracies failed, dictatorships succeeded The defects of democracies stood exposed in the full blaze of the sun The League of Nations, which was expected to [illegible] democracy also failed miserably in its primary purpose of [illegible] international rivalries, and World War II broke out in 1939

the inter-war period (1919-1939), Germany, Italy, Russia, Spain, Turkey and Japan developed strong dictatorship

Conflict of Ideologies After the end of World War II (1939-45), there has been a conflict between democracy and dictatorship, freedom and totalitarianism, capitalism and communism. Communism, which became a great international force after the Bolshevik Revolution of 1917 spread very fast Soviet Russia established the so called 'Dictatorship of the Proletariat", so also did China after the successful communist revolution of 1949 After the end of World War II, communism has been spreading at an accelerated speed, and it seems communists are aiming at making the entire world red The Eastern European states and several states in Asia have gone communist About one-third of the world has gone red The USSR and China are giant totalitarian states, while the USA, England, France and India are democratic The people in the various parts of the world are being approached directly or indirectly by the Super Powers of the world (that is the USA and the USSR) with their 'political wares', it is for the people to choose Time alone knows which Super Power and ideology will ultimately triumph

F The Ancient State and the Modern State

Simplicity to Complexity There is a great difference between the ancient state and the modern state The ancient state had a very simple governmental machinery, and all power was exercised by one man or a few men There was no distinction between executive and other functions Modern governmental machinery is very complex The government has three organs viz executive, legislative and judicial Morever, several committees and advisory bodies function Political consciounsess, which was very weak in ancient times is of a very high degree today and public opinion plays an important part Political parties, lobbies and pressure groups all over the world have come to stay, for playing a vital part

Nationalism and Inter-Nationalism The exaggerated importance given to nationalism in modern times created imperialism and wars All over the world, owing to the scientific inventions and discoveries and the revolutionising of the means of transport and communications, time and distance have been killed To us, men of science, the world looks small The blood-bath of World War I made people think about internationalism and the League of Nations was started to promote international peace and understanding

and prevent the outbreak of another world war The League failed, but mankind did not give up hope During the later days of World War II (1939-45) the background for the United Nations Organization was created, and in 1945 the UNO was established Today the UNO stands for world peace Thus man moved from the primitive tribal state to that of the UNO in the course of thousands of years The UNO, however, is not a state

G The Future of the State

World Federation Perhaps the nation state is not the final stage in the evolution of the state According to Laski, there is another stage, and that is of world federation C K Streit also thinks along the line of Laski Theoretically, the idea seems sound, but there are practical difficulties in the way of the establishment of a world federation With the present attitude of the different governments of the world and their unwillingness to make concessions in national sovereignty, it is idle to speak about a world federation at least for the time being

Perhaps, another World War, in which the most destructive nuclear weapons will be used, may make the surviving nations think of pocketing their national ego and joining a world federation

MAIN POINTS

1 **Absolute Monarchy** Several factors favoured the rise of absolute monarchy Conditions not good for democracy Tudor monarchy in Britain Royal absolutism in France Austria Prussia and Russia

2 **Revolutions** In America and France strong reaction against arbitrary government Principles of equality liberty popular sovereignty and nationality

3 **Modern State** Renaissance and other movements emancipated minds of Europeans Rise of democracy in Britain U S A and other countries Industrial Revolution Rise of socialism and communism Triumph of nationalism and democracy Imperialism Dictatorship Conflict of ideologies Capitalism communism and totalitarianism

4 **Future of State** Internationalism Difficulties of world federation

Section V

SOVEREIGNTY

CHAPTER 13

MEANING AND HISTORY OF SOVEREIGNTY

Sovereignty is the most essential attribute of the state, a[nd] it is this which distinguishes it from other associations

A Definition of Sovereignty

Supreme Power Internally and Externally The term 'sovereignty' is derived from the Latin word *superanus* which means paramount or supreme "The word 'sovereignty,' entered the vocabulary of political theory from the feudal order wherein it designated a relationship between persons The term 'sovereign' had been applicable to any feudal overlord with authority ov[er] subjects in his own dominions"[1] The term 'sovereignty' came int[o] actual usage not till the fifteenth century Sovereignty, a juristic concept as used in connection with the state indicates supreme, final or ultimate power in the internal and external spheres

Will of State in Legal Terms The state is endowed with supreme power through which it expresses its will in legal terms The supreme power is sovereignty The will of the state in legal terms is binding on all individuals or associations Without sovereignty, the state cannot give expression to its will The state is a supreme order-issuing authority Within the state, no one is competent to challenge the order issued by it through

1 J S Roucek & Others *Introduction to Political Science* (1954) p 49

its government, and in the external affairs, no outside agency, whether an individual or a foreign government can issue any orders to it. India as a state today possesses supreme power in all domestic affairs, and it can coerce any individual or group of individuals into submission and so also, it does not receive orders from any one within the state or obey the order of any foreign government externally For instance, no government in the world can send any order to the Government of India regarding any matter internal or external A foreign government may give friendly advice to the Government of India or it may appeal to it, but no order as such legally speaking can be issued to it.

Some Important Definitions According to Jean Bodin, sovereignty is "the supreme power over citizens and subjects unrestrained by law " In the words of Hugo Grotius, sovereignty is "the supreme political power vested in him whose acts are not subject to any other and whose will cannot be overridden" Burgess also gives a very clear definition according to him, sovereignty is "original, absolute, unlimited power over the individual subject and over all associations of subjects"

Will of Sovereign, Consent and Force How the will of the sovereign state is expressed depends upon the nature of the state, and the calibre and genius of the people, who are governed In ancient times, in many of the states, sovereign power was exercised through force In modern times, in democratic countries, consent plays an important part, though some measure of force is also essential and inevitable In a dictatorship or in a totalitarian state, the will of the people rarely counts The people are led by force, and authority is also maintained by force

B Salient Features of Monistic Sovereignty

Monism Sovereignty is absolute, exclusive, universal, inalienable, permanent and indivisible, according to the traditional doctrine of sovereignty, which is also called monistic The monistic concept of sovereignty has to be distinguished from the pluralistic

The following are the features of monistic sovereignty

1 **Absolute and Exclusive** Sovereignty is above all individuals and associations, it is unlimited and unfettered There is no power within the state, which is equal to that of the state In other words, it is exclusive If two or more powers within the state compete with

in its entirety, and never of a slice of it Nothing would be more absurd than to speak of half or part of sovereignty Perhaps, those who talk of two sovereign authorities within the same state have in mind *federal states like the USA Though it is true that* powers are divided on specific subjects between the federal government and state governments, sovereignty behind these two sets of government remains intact The federal government and the units act as the agents of the entire state, whose sovereignty is always indivisible "There is no difficulty in understanding how powers appertaining to sovereignty may be divided and the exercise of one portion be delegated to one set of agents and another portion to another or, how sovereignty may be vested in one man, in a few, or in many But how sovereignty itself, the supreme power can be divided it is impossible to conceive "[1] Thus powers pertaining to sovereignty can be divided but not sovereignty itself

C The Location of Sovereignty

Some writers are agitated over the question of locating sovereignty and they cannot give a straight answer to the question "where does sovereignty lie in a state ? '

Dual Theory of Sovereignty It is very difficult to locate *precisely sovereignty in a federal state, and in the words of* Laski it is "practically an impossible adventure" When the question of adopting the Constitution of the USA rose, leaders like Hamilton and Madison held the view Federat
Federal Government was sovereign as re sur
to it by the States, whereas each of th
sovereign as regards powers not surrende
they upheld the theory of Dual Sovereignty
experts like De Tocqueville, Wheaton
judges like Story and Cooley confirmed the
reignty The view of these
only one sovereign power
co-ordinate but subordinat
units derive their power fro
entire state as sovereign L
USA is vested in the
vigorously attacked the princ

Sovereignty Vested in the
it must be clearly understood

1 Calhoun quoted in F

in the state alone In some states, it is easy to locate sovereignty For instance, in England sovereignty lies in the King-in-Parliament In federal states like the USA, where the constitution distributes powers between the Centre and the Units, sovereignty can be located in the constitution-amending authority According to Gettell, locating sovereignty in the sum total of the law-making bodies in the government is the most satisfactory solution This is because sovereignty manifests itself through the laws made by those bodies Gettell's solution however is not adequate and the matter is not so simple as it seems

D History of Sovereignty

We may briefly trace the growth of sovereignty in the ancient, medieval and modern times

1 In Ancient Times

In Greece Ideas pertaining to sovereignty can be traced to the days of Aristotle, who in his *Politics* gave expression to the need to have a *supreme power* in the state But there was no discussion around the point of anything like the modern concept of sovereignty We should resist the temptation to read too much in the expression 'supreme power' as used by Aristotle and incorrectly infer that the concept of modern sovereignty was known to Aristotle From Aristotle to Bodin is a far cry, and there is a world of difference between the very dim ideas around the 'supreme power' of Aristotle and the concepts of sovereignty as conceived by Bodin, Hobbes, Grotius, Bentham and Austin in modern times The Greeks entered into a life partnership with the state, and put themselves completely at the disposal of the state As in modern times, there was no problem in the Greek city-states of the individual having any conflict with the state or of offering any opposition to it In modern times, when many associations and social groups rose to cater to the needs of the individual, the question of sovereignty had to be solved

In Rome The urgency of evolving a clear-cut doctrine of sovereignty did not rise in Rome also Rome as conqueror and mistress of a mighty empire faced no *ideological* opposition to her power both in the internal and external spheres, and Roman lawyers did not set their mind on the difficult question of sovereignty As in modern states, the question of relationship between the individual and the state was not so important in the Roman Empire At the most, perhaps, we may see in Roman law a very dim beginning of sovereignty

2 Ideas in Middle Ages

Universal Church and Universal State The break-down of law and order after the fall of the Roman Empire, the growth of the feudal state, the precarious position of kings in the feudal structure and the never ending quarrels between Popes and Holy Roman Emperors, both of whom laid claim on the superior position were not conditions favourable to the growth of a clear principle of sovereignty Between the Universal Church and the Universal State, supposed to be two unifying forces of the middle ages, there was a long drawn struggle for power The feelings of loyalty to state and nation, that we find in the modern times were absent in the middle ages People, as a rule, did not depend on a central power It was difficult to say where sovereignty or supreme powe was vested

Feudal State In feudal Europe, the king was sovereign in his kingdom, while the tenants-in-chief were sovereign in their own respective earldoms or estates At the most, the king was superior to the feudal barons, but was not regarded as supreme or paramount The modern concept of ab olute and indivisible sovereignty could not fit into the feudal state One could talk of the King s dominion, but not of sovereignty In such conditions, there was confusion about the location of ultimate power, which we call sovereignty today

Idea of Territorial Sovereign When various factors led to the decline and final disappearance of feudalism and the elimination of the intermediaries between the king and the people, the way was clear for the rise of the 'territorial sovereign' This important stage of "the territorial sovereignty of the individual gave place to the later idea of the sovereignty of the state as such "[1]

Aquinas, Marsiglio and William of Ockam on Popular Sovereignty Thomas Aquinas, a great thinker of the twelfth century gave some idea of popular sovereignty by saying that Papal power came dire tly from God but the power of the Emperor was derived " from the consent of the people and the co-operation of the church " The concept of popular sovereignty was further amplified by writers like [illegible] siglio of [illegible] nd William of Ockam But the middle [illegible] not wi[illegible] of a clear-cut theory, which could loca[illegible] definitely somewhere

1 E Asirvathan *Political The[illegible]*

3 Development of Sovereignty in Modern Times

Monarchy and Protestant Reformation In modern times, the national state rose, and the theory of sovereignty as we know it now also grew with it The sixteenth century witnessed the rise of a bitter struggle between the Church of Rome and Protestantism, and terrible hatred between Catholic kings and Protestant subjects or between Protestants and Roman Catholics Protestant subjects were in no mood to acknowledge the authority of a Roman Catholic king, the same was the attitude of the Roman Catholics towards a Protestant monarch In the same century, a precise idea of the modern theory of sovereignty was furnished for the first time by Jean Bodin (1530–96), a French thinker

Bodin's Views

Need of Civil Authority Bodin keenly felt the need to have a civil authority in the state, which would be superior to other authorities within the state and would be in a position to assert itself against other states in the external field

Making Laws In his *Republique* published in 1576, Bodin declared that the chief function of the sovereign authority was to make laws, which would be obeyed within the state, and would assert themselves in the external sphere also Thus Bodin gave the modern concept of sovereignty Sovereignty took proper shape at a time in Europe, when kings were building up their absolute power

Sovereignty Absolute, Indivisible and Imprescriptible The important characteristics of sovereignty as conceived by Bodin were the following

(1) It is free from internal and external control

(2) It has supreme power to make laws

(3) It is absolute, indivisible and imprescriptible, that is, unlimited and incapable of being broken It "cannot be lost by mere lapse of time, as property in land may be lost by prescription at private law"

Thus Bodin made a case for full, unfettered, unlimited, permanent and supreme power internally and externally

Subject to Moral Principles An important question about sovereignty was whether it was over and above moral/obligations Bodin made his sovereign supreme *legally*, all the same, he was supposed to be subject to moral principles, that is, "the laws of God, of nature and of nations" While the sovereign may be

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1 E Asirvathan *Political Theory* (1957) p 267

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exempted from following his own laws, he was bound by the fundamental principles of justice and fairplay

State as a Whole Not Sovereign The sovereign power (based on justice) may be located in one, few or many, but his predilection was for one, and hence he gave the concept of state sovereignty, which was to be borne by one element in the state A very significant point in his theory was that the state as an entirety was not sovereign

Sovereignty as Personal Attribute of King When the king triumphed over the church as a result of the Protestant Reformation, and the way was clear for absolute monarchy, sovereignty was regarded as the personal attribute of the ruler, or in the other words, sovereignty was synonymous with the supreme power of the king Bodin s chief contribution was particularly his views on internal sovereignty His ideas provided a theoretical basis for absolute monarchy in the seventeenth and eighteenth centuries

Althusius and Popular Sovereignty

Criticism of Bodin's Absolute Monarchy Monarchomachs led by *Althusius* were against *Bodin's theory* According to Althusius, who was one of the foremost to speak about the theory of contract, sovereign power is subject to the laws of God and nature, though it is free from civil law

Popular Sovereignty People form the final source of all governmental authority Sovereignty lies in the whole people who are the political creators and monarch-makers Rulers die but the people are permanent Rulers are there, because they derive power from the people, power is based on contract, whose terms can be repudiated by the people if they are injurious to their interests

Mistake of Excluding Rulers It has to be noted here that in the argument of Althusius and the Monarchomachs there was a great snag While speaking vigorously about the concept of popular sovereignty, they dealt with the people, that is, only the governed part of the state, and failed to include the rulers also Thus their concept was based on a wrong assumption, they could not think in terms of the whole state, including the rulers and the ruled

Views of Hugo Grotius

Via Media Hugo Grotius (1583–1645), a Dutch writer struck a *via media* between Bodin's ideas and those of the Monarcho-

machs He did not speak in favour of absolutism like Bodin His sovereign's power, which is subject to divine law and the law of nations is also limited by agreements made between the ruler and the ruled Though he did not favour absolute monarchy, he felt at the same time, that popular government may not be able to maintain peace and order The people can choose their government, but they should obey the government of their choice, once it is set up

Government Special Bearer of Sovereignty Unlike Althusius, Grotius located sovereignty in the state as a whole The government is the special owner or bearer of sovereignty, and the state is the general bearer or common possessor A great defect in the theory of Grotius is the confusion arising out of the distinction between government as the special bearer and the state as the general possessor of sovereignty Another great drawback in Grotius's idea is that people can completely give away (alienate) sovereignty, as if it is a piece of private property This defect has been severely criticised by modern writers The distinct contribution of Grotius is regarding the external sovereignty of the state, which means complete independence of a state from foreign control

Views of Hobbes

Absolute Monarch Thomas Hobbes, an English thinker made his monarch the product of a social contract, but not a party to it He advocated the cause of the absolute sovereign, while dealing with the social contract His ruler was more absolute than that of Bodin His sovereign is above the contract and not subject to any limitations Sovereignty located in the ruler is "absolute unified and inalienable and is based upon a voluntary but irrevocable contract " "Consequently, sovereignty, according to Hobbes, is the assertion by one means or another of the supremacy of a single unitary will subject to no restraint Truly Hobbes created a Leviathan, a citadel of uncontrolled and uncontrollable power "[1] Hobbes's views are of paramount importance as they led to Austin's Theory of Sovereignty later on

Views of Locke

Political Sovereignty and Legal Sovereignty Locke mentions the term 'supreme power' and avoids the use of the word 'sovereignty'

[1] J S Roucek & Others *Introduction to Political Science* (1954) p 51

He speaks of two contracts viz a social contract and a governmental contract, the authority of his monarch is limited, and the people have the right to rebel, if he abuses authority Government is an authority to which 'supreme power' is delegated by the people, who have 'supreme power' Locke's concept of two 'Supreme Powers' led to the growth of the principles of political sovereignty and legal sovereignty in the nineteenth century

In the treatise of Locke, Merriam discovers three sovereigns

(1) The king (as in England) is the Formal Sovereign The king's authority is supreme, when the legislature is not in session

(2) The legislature, which is the supreme part of government is the Governmental Sovereign

(3) The civil or political society or people form the Political Sovereign

Views of Rousseau

Popular Sovereignty and General Will Rousseau brought about a combination of the principle of absolute sovereignty in Hobbes and the principle of people s consent in Locke, and developed his theory of popular sovereignty [1] A unique contribution of Rousseau in his concept of the General Will, which is almost the same as sovereignty General Will stands for the best common interests of all, and the Acts conforming to the General Will alone can be regarded as laws

Views of Hegel

State as God on Earth The German political philosopher Hegel justified state absoluti m and provided a philosophical basis for the theory of sovereignty He was in favour of giving a blank cheque to the state as regards sovereignty, because according to him, "the state is a perfected rationality, the eternal and necessary essence of spirit, the rational in itself and for itself, an absolute fixed end in itself He even considered the state as 'God on earth' By elevating the state to a very great height and by identi fying it with society Hegel belittled the individual The individual should obey the orders of the state implicitly, and make any sacrifice called for by the state

Views of Bentham

Laws Commands of Sovereign After Rous eau, the legal theory of sovereignty got systematic treatment at the hands of

1 See the Social Contract Theory of Hobbes Locke and Rousseau

Bentham in England Bentham spoke of political society as a group of persons habituated to obey a person or an assemblage "of persons of a known and certain description" In political society, there are thus two parties viz one issuing commands and the other habituated to obey these commands Laws are nothing but "the commands of a supreme governor or the sovereign" In saying this, Bentham foreshadowed Austin Though he says that sovereignty is unlimited by law, it is subject to moral restrictions Bentham expects his sovereign to pass necessary legislation to promote the greatest happiness of the greatest number

Views of Austin

Legal Theory and Determinate Human Superior The views of Hobbes and Bentham on sovereignty reached their climax in John Austin's legal theory of sovereignty Austin spoke in clear and unambiguous language on political society and sovereign "If a determinate human superior not in a habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society, and the society (including the superior) is a society political and independent"

We shall deal with the details of Austin's Theory of Sovereignty in Chapter 15

MAIN POINTS

1 **Definition of Sovereignty** A legal concept An important attribute of state Supreme ultimate authority in internal and external spheres

2 **Features** Monistic theory says sovereignty is absolute and exclusive, universally applicable inalienable permanent and indivisible

3 **Location of Sovereignty** Difficulty of locating sovereign Hamilton Madison De Tocqueville Wheaton and others favoured Dual Theory of Sovereignty Criticism

4 **History** (1) Aristotle spoke of supreme power (2) Roman lawyers had no need to evolve a clear theory of sovereignty No ideological opposition to power of Rome No problem regarding individual–state relationship (3) Confusion regarding sovereignty in the medieval period owing to feudalism and Church–State conflicts Rise of the idea of territorial sovereignty (4) Bodin spoke of the need of civil authority Sovereignty absolute indivisible and imprescriptible Criticism by Althusius and other monarchomachs Althusius spoke of government as special bearer of sovereignty and state as general bearer Locke's concept of two supreme powers Rousseau's concept of General Will which is sovereign Hobbes and Bentham anticipated Austin's legal theory of sovereignty Hegel's concept of state absolutism

CHAPTER 14

KINDS OF SOVEREIGNTY

Political scientists speak of different kinds of sovereignty (a) titular and real (b) legal and political, (c) popular and national (d) de facto and de jure, and (e) internal and external Let u examine the meaning of these terms

A Titular Sovereignty and Real Sovereignty

Titular Sovereign The term 'titular sovereign' indicates a monarch or any other ruler, who does not exercise real power but acts only in a nominal capacity as an instrument of govern ment The titular sovereign is only in name, he is like a shadow without substance The concept of titular sovereignty rose in modern times, when the autocratic powers of monarchs were clipped, and they were forced to rule according to the advice of ministers responsible to the legislature or constitutional restraints were imposed on them When monarchs lost all real power they became mere ornamental heads After a long struggle with the king parliament in England ucceeded in making monarchy strictly constitutional, but the conservative English people did not abolish monarchy altogether, they retained it after making it absolutely harmless King Henry VIII in England exercised real power, but at pre ent Queen Elizabeth II has only nominal power Today, monarchy has only symbolical significance in England The king in England is only a titular head as he does not have a will of his own, and the government is really carried on by a cabinet or council of ministers responsible to Parliament The President in India is more or less a titular or nominal head Though he forms the topmost executive in India, enjoying technically the greatest power, the highest emoluments and unrivalled dignity, he is bound to rule by the advice of the Council of Ministers (with the Prime Minister as head) responsible to Parliament In plain

unvarnished language, the Union Council of Ministers represents real power, and the President exercises only nominal authority

Real Sovereign An individual or a group of individuals exercising real power is known as real sovereign

B Legal Sovereignty and Political Sovereignty

Sovereignty can be viewed from political and legal angles

Lawyer's Concept of Sovereignty Sovereignty which is valid strictly from the legal point of view is called legal sovereignty The legal sovereign is the supreme law-making authority, which is competent to put in legal terms the highest orders of the state The legal sovereign is sovereign according to law He is recognised by law, and is competent to issue final commands in legal terms The legal sovereign is seen by all, and is the only supreme authority recognised by lawyers and law courts As a supreme authority known to all, nobody can disobey his orders This is the lawyer's concept of sovereignty "The legal sovereign observes a well known writer is the lawyer's sovereign beyond which lawyers and courts refuse to look"[1] In England, Parliament is the legal sovereign No individual or group of persons can nullify what Parliament has passed No court of law can challenge the validity of a law passed by Parliament

Political Sovereign Expressing Will of State behind Legal Sovereign Behind the legal sovereign is the political sovereign, who cannot express the will of the state or the highest commands of the state in legal terms Though the political sovereign is "legally unknown, unorganized," the legal sovereign is ultimately subject to the will of the political sovereign In a very broad sense, the entire population represents the political sovereign, and in a narrow sense only the electorate becomes the political sovereign The electorate, which expresses the will of the state behind the legislature is the political sovereign The electorate cannot express its will in legal terms, and in a court of law it is not recognized Lawyers recognize the legal sovereign that is, the legislature only and not the political sovereign, the electorate Nevertheless the will of the state is expressed or shaped by the political sovereign and therefore the political sovereign cannot be ignored Dicey aptly says "Behind the sovereign which the lawyer recognises there is another sovereign to whom the legal sovereign must bow"

1 J W Garner *Political Science and Government* (1955) p 148

In a direct democracy, there is perfect coincidence between the legal and the political sovereign, in an indirect or representative democracy, such coincidence is not possible, as there is the possibility of a conflict between the two

We may note the difference between the legal sovereign and the political sovereign in the following table

	Legal Sovereign		Political Sovereign
1	Supreme law-making authority in legal terms	1	Behind the legal sovereign, cannot express will in legal terms
2	Determinate, definite and visible	2	Not determinate and clear, it is unorganized
3	Legal sovereignty is vested in one person or a group	3	Political sovereignty is vested in the electorate
4	Recognized by lawyers	4	Not recognized by lawyers
5	Cannot go against the will of the political sovereign	5	Though not legally all powerful, actually, the political sovereign has control over the legal sovereign
6	Concept of legal sovereignty clear	6	Concept of political sovereignty vague
7	Legal sovereign elected by political sovereign	7	*Political sovereign* is the electorate or people

Sovereignty Indivisible An important question that can be asked is whether sovereignty is divided between the legal sovereign and the political sovereign Sovereignty cannot be divided The political sovereign and the legal sovereign only mean "two different manifestations of one and the same sovereignty through different channels"[1]

In democratic states, the legal sovereign has to obey the wishes of the political sovereign

C Popular Sovereignty and National Sovereignty

Electorate the Popular Sovereign In the sixteenth and seventeenth centuries, the concept of popular sovereignty took shape, According to this, the ultimate authority or supreme power is vested in the people, and not in an individual or a group A per

1 Ibid p 49

tinent question that can be asked is In whom is sovereignty vested ? Is it in all the hundreds of thousands of unorganized people ? The answer is that it is vested only in the electorate The people can express their will at the polls This is being done in states like the USA , England and India, in which government is based on the will of the people

The idea of popular sovereignty was upheld in the ancient times by Cicero, who was inspired by the Stoic principle of natural law and human equality He said that "the authority of the commonwealth is derived from the corporate power of the people " In Rome, however, there was no scope for the expression of popular will In modern times, many thinkers wrote in favour of popular sovereignty It can be asked whether people in whom it is supposed that sovereignty is vested can really govern or at least express their will, particularly when the machinery of modern governments is so complex The truth is a democratic government is run according to the wishes of the legislature, and the various committees and sub-committees appointed by it The people can express themselves through political parties, press, platform and other agencies

National Sovereignty of the French Revolutionaries The principle of national sovereignty was put forth by the French Revolutionaries through their celebrated document, the *Declaration of the Rights of Man* According to this, sovereignty is vested in the nation Does the term 'nation' indicate the people ? Is national sovereignty synonymous with popular sovereignty ? The plain answer is No' In a state, in which there is no universal suffrage, national sovereignty cannot connote popular sovereignty The expression 'national sovereignty' as used by the French Revolutionaries *perhaps drives home the point that sovereignty does* not rest in the absolute monarch but in the nation The concept of national sovereignty is of little practical use "Now it is not difficult to demonstrate that it is null and that the pretended dogma of national sovereignty is a gratuitous hypothesis, and, moreover a useless postulate "[1]

D De Facto and De Jure Sovereignty

De Facto Sovereign is the Actual Sovereign *De facto* sovereign is the actual sovereign wielding power and commanding

1 M Duguit quoted in J W Garner *Political Science and Government* (1955) p 158

obedience, he is in power by virtue of the fact that he is able to force the people to obey him and remain loyal to him The basis of *de facto* sovereignty is physical or spiritual force or any other factor rather than law The *actual* ruler may or may not have a legal basis for his power A minister who usurps power and becomes king, or a dictator or a general who seizes power becomes the sovereign by *fact*, he may not have any legal justification to exercise power though he may give his own "reasons" for overthrowing the legal ruler Oliver Cromwell in Britain and Napoleon Bonaparte in France became *de facto* overeigns by virtue of their superior military power Mussolini, Hitler and other modern dictators rose to power and exercised actual power not by virtue of their legal right, but by their right of might or military power The overthrow of King Farouk and the rise of General Naguib and after him of General (later President) Nasser in Egypt are other examples of the rise of *de facto* sovereignty General Ayub Khan was the *de facto* ruler of Pakistan for about 10 years, he rose to power by military coup When Ayub Khan was overthrown, Yahya Khan rose to power with the help of the army The *de facto* ruler may be good or tyrannical When the legal ruler is oppressive, people welcome a change and are willing to support another ruler, who can deliver the goods The new ruler has his own military strength and the people's support as the basis of his power It happens in certain states, that though the king is the legal or *de jure* ruler, he may neglect his duties, and actual power may be in the hands of his diwan or prime minister, who is the *de facto* ruler Law recognises only the king as the ruler, while by fact the prime minister is the ruler Sometimes the same man or group of persons may become the *de jure* and *de facto* ruler that is the legal and actual ruler 'The person or body of persons who or which for the time is able to enforce obedience or in whose rule the people voluntarily acquiesce is the *de facto* sovereign, though he or it is not necessarily the *de jure* overeign'"[1]

Legal Basis of De Jure Sovereignty A *de jure* sovereign or legal sovereign has his power on the basis of law, that is, legally he has the right to rule and command loyalty A king in a country is recognized by law Though he has military power and can force the people to obey him, his power is built not on sheer physical force alone, but has a legal sanction behind it A person who seizes power

1 J W Garner *Political Science and Government* (1955) p 155

by force and becomes the ruler setting aside the *de jure* sovereign does get *de jure* sovereignty by virtue of being in power for a considerable time, during which people are habituated in rendering obedience to him In Soviet Russia, the Communist Government became the *de facto* government after the successful Bolshevik Revolution of 1917 In course of time by acquiring stability and by making the people get used to its power, it became the *de jure* government also

E Internal and External Sovereignty

Power To Order All A state exercises internal sovereignty The supreme or ultimate power to issue orders within the state on all individuals, groups and associations is internal sovereignty No individual is competent to issue an order to the state, on the contrary he has to obey every order given to him by the state Had this not been so, there would have been anarchy in the state

State Not Subject to Foreign Control A state exercises external sovereignty also A state has to deal with other states it has to maintain diplomatic relations with them Treaties may have to be signed, and sometimes war may have to be declared All these powers come under external sovereignty By virtue of external sovereignty a state is on an equal footing with other states While a state is not competent to issue orders to other states, it also does not take orders from them "Some writers employ the term "external" sovereignty to mean nothing more than the freedom of the state from subjection to or control by a foreign state, that is, the supremacy of the state as against all foreign wills, whether of persons or states "[1]

Garner has serious objection to the use of the expression 'external sovereignty', which, he says is not a proper term to be used in international law He is in favour of the term 'independence' to be used in the study of international relations If a state is *sovereign internally, he says, it is bound to be so externally* also, that is, it is independent

MAIN POINTS

1 **Titular Sovereignty** T sovereign like king in England has nominal power Real power exercised by soverign who is called real

2 **Legal Sovereignty and Political Sovereignty** L S is lawyer s concept Legal sovereign is recognised by law and law courts He issues orders in legal

1 Ibid p 156

terms P S is behind L S In England Parliament is LS People or rather electorate is PS Political sovereign expressess will of state behind LS

3 **Popular Sovereignty** PS is vested in the people or rather in the electorate PS assumed proper shape in modern times

4 **National Sovereignty** Sovereignty vested in the nation NS cannot be popular sovereignty when franchise is restricted

5 **De Facto and De Jure Sovereignty** DF sovereign is actual sovereign whether his power has legal basis or not DJ sovereign has the right to rule legally

6 **Internal and External Sovereignty** IS is power to issue orders within the state ES means freedom of state from foreign control

CHAPTER 15

AUSTIN'S THEORY OF SOVEREIGNTY

The theory of sovereignty, which was developed by Bodin and other writers in modern times received scientific exposition at the hands of John Austin (1790–1859), an English jurist and philosopher

A Explanation of Austin s (Monistic) Theory

Austin's Legal Approach John Austin in his inimitable manner gave a clear and precise exposition of the legal or monistic theory of sovereignty in his *Province of Jurisprudence Determined* (1832) In his *Lectures on Jurisprudence*, Austin drew a line of difference between law and morality, and also between positive law as recognised, followed and enforced by law courts on one side and customs, conventions traditions and usages having the sanction of many centuries on the other He was strongly influenced by Thomas Hobbes and Jeremy Bentham, and adopted a thoroughly legal approach He precisely defined the position of the sovereign, and gave the meaning of law, that many critics did not accept his legal thesis is another matter Austin is against the classification of sovereignty into *de facto* and *de jure*, this can be applied to government and not to sovereignty according to him

Sovereignty of Determinate Human Superior Austin speaks of vesting sovereignty in a determinate human superior He says "If a determinate human superior, not in a habit of obedience to a like superior, receives habitual obedience, from the bulk of a given society, that determinate superior is sovereign in the society and the society (including the superior) is a society political and independent"

This can be analysed as follows

(1) In every ' society political and independent," that is, the state, the bulk of the citizens render habitual obedience to determinate human superior (this may be one person or a [illegible]

(2) This determinate human superior is the maker of law His commands are laws, and without him the state can have no laws

(3) The power of the determinate human superior is sovereignty

(4) Sovereignty is absolute, indivisible and without any limitations, it is vested not in the people or electorate or in the General Will as conceived by Rousseau or in God as given by the Divine Right Theory, but in the determinate human superior

(5) The determinate human superior has no rival of equal status in the state, and he does not obey the order of anyone

(6) The bulk of the people obey the sovereign's orders as a matter of habit that is, always and invariably, and not casually or irregularly or for a temporary period The sovereign may not be obeyed by all, but this does not impair his sovereignty What is needed is obedience by a bulk or large majority of people

B Criticism of Austin s Theory

Austin's theory has been criticised by several writers on the following grounds

1 Sovereignty not in Determinate Human Superior Sir Henry Maine and other historical jurists have criticised the concept of the human superior, who is habitually obeyed by the bulk of people According to Sir Henry, in many of the kingdoms or empires in the Orient, 'the determinate human superior' as pictured by Austin cannot be discovered, because sovereignty cannot be located in a determinate human superior Pointedly Sir Henry says that in history sovereignty has never been determinate He gives the example of the autocratic Ranjit Singh (1801–39) who had powers of life and death over his subjects, but was at the same time bound by the customary laws of the community In the Austinian sense, Ranjit could issue any order, which the Sikhs were habituated to obey, but actually this was not the case He never issued an order answering Austin's concept There is no doubt, as Sir Henry says, that few rulers can strike deep roots of their authority, if they try to violate or ignore the customs and traditions of the people

2 Too Legal and Abstract Austin's theory is brutally legal and abstract and it fails to take cognizance of the philosophical aspect of sovereignty According to the idea of popular sovereignty, supreme power is vested in the people In Rousseau's Social Contract Theory it lies in the General Will If Austin's theory is taken for granted, it will be difficult to find in the modern state

a determinate human superior Moreover, the expression 'habitual obedience' is too restricted in meaning to be applied to the loyalty of the people of the state

3 **All Laws not Sovereign's Commands** Austin makes law very simple, to him it is nothing but the command of the sovereign A study of the codes of law all over the world will repudiate this simple explanation of Austin The question of conventions, customs and usages creates a difficulty in Austin's theory, this is solved by merely saying that "whatever the sovereign permits, he commands" In the otherwise, precise and unambiguous theory of Austin the expression 'whatever the sovereign permits he commands" is very vague Probably, Austin wants to make room for customs and usages, whose force he must be quite aware of Despotic rulers cared only for tax-collecting and maintaining armies and did not apply their minds to the making of laws These despots might have occasionally issued orders which by no means were laws in the ordinary sense of the term Mostly as in the case of the ancient Persian Empire the people were allowed to practise their own religion and customs, provided they regularly paid the taxes or tribute In these empires, what we might call law came from various sources like customary usages religion or priests, and it was difficult to discover the determinate human superior, whose commands were laws Therefore, it is not possible to agree with Austin that all laws are sovereign's commands, it is also incorrect to say that laws have the basis of force only Austin's sovereign is supreme only as regards positive law His sovereignty does not cover the moral sphere

4 **Absolute Sovereignty Harmful** Pluralists have attacked that part of Austin's theory, which says that sovereignty is absolute and unlimited Even others have criticised this aspect of the theory For as Bluntschli points out, whatever might be the abstractions, actually sovereignty is never absolute, but subject to certain restrictions in connection with the rights of other states in the external field and to the inalienable rights of individuals in the internal sphere In the internal sphere sovereignty is subject to constitutional law, and in the external it is restricted (though not very strictly in the legal sense) by international law Laski, who is in favour of the limitation of sovereignty in the interests of other associations strongly criticises the absolute sovereignty of Austin, such unlimited sovereignty is not only harmful to the existence and functioning of other associations in the internal sphere but detrimental

to world peace, as it promotes competition and rivalry among sovereign (independent) states The trends in the international field prove the truth of Laski s opinion, as almost every state is jealous of other states and guards its sovereignty thoroughly, without even making concessions for the good of humanity as a whole

5 **Anti-Democratic** Austin's theory cuts at the very roots of democracy According to Austin, subjects have no legal rights against the state Democracy is supposed to be government of the people, and sovereignty is vested in the people But in the Austinian sense the people are not determinate and cannot be sovereign The influence of the people exerted through the legislature, political parties, press, books and other agencies of public opinion is completely overlooked by Austin Thus, the theory is unrealistic and quite out of tune with the times

6 **Difficulty of Discovering Sovereign** The sovereign in the Austinian sense cannot be easily discovered in the modern state For instance, in England sovereignty may be located in parliament, which may be taken as a determinate superior, but then the matter is not so simple, as parliament cannot do whatever it likes, and has to keep its finger on the pulse of the people who form the political sovereign A parliament, which is anti-people cannot last long Thus parliament cannot answer to the description of Austin's sovereign The cabinet in England cannot be sovereign in the Austinian sense, as it has to be responsible to parliament The king also cannot be the sovereign, as he has no real power Similarly, it is very difficult to locate sovereignty in states like the USA and India, in which government is federal Regarding location of sovereignty in England Austin gets most confused He is correct as far as he says that parliament is sovereign in England, but he confuses by adding that (1) king and peers and electors are sovereign, (2) the electorate is sovereign when parliament is dissolved, and (3) that the Commons have powers

Conclusion The following points can be remembered by way of conclusion

(1) The Theory clearly and logically explains the legal nature of sovereignty

(2) But it is found wanting in modern times (See the drawback)

(3) It is misleading

(4) It is anti-democratic
(5) It ignores the socio-political forces
(6) It ignores the need of promoting people's welfare

MAIN POINTS

1 **Meaning of Austin s Theory** Gives monistic theory Legal approach Determinate human superior is sovereign Habitual obedience by bulk of people Sovereignty is absolute and indivisible

2 **Criticism** (1) Sovereignty cannot be in determinate human superior (2) Too legal abstract and unrealistic (3) All laws cannot be sovereign's com mands (4) Absolute sovereignty harmful (5) Anti-democratic (6) Difficulty of discovering sovereign

3 **Conclusion** Very clear and logical But found wanting in modern times

CHAPTER 16

SOVEREIGNTY AND PLURALISTS

The monistic theory of sovereignty came in for scathing criticism at the hands of pluralists like Harold Laski, J N Figgis, Ernest Barker, G D H Cole, A D Lindsay, Miss M P Follet and others Pluralism has been explained through different angles by philosophical writers, jurists like Leon Duguit, guild socialists like G D H Cole and sociologists "Not an unusual feature of pluralistic criticisms of sovereignty is that the individual writers wish to lay stress on some particular type of autonomous organization or support some special type of social organisation such as socialism "[1]

A The Theory of Pluralists

State not All-Inclusive and All-Comprehensive According to pluralists, the state cannot be regarded as "all-inclusive, all-mighty or all-comprehensive " The state cannot be omnipotent, as various associations are not less important to the life of the individual in the community than the state All groups or associations, through which man realises his political, social, economic and other aspirations are of equal importance to the individual and it is wrong for the state to claim absolutism and omnipotence Sovereignty should not be indivisible, and the various associations should enjoy co-sovereignty with the state Unlike monists, pluralists do not regard *associations as creations of the state,* associations have a will of their own, and they need not depend on the state for their existence and continuation

Consciousness and Will of Social Groups In the middle ages, when there was the feudal state and the central governments all over Europe were weak, the successful functioning of different kinds of guilds particularly in prosperous towns and cities revealed the importance of social groups or associations Writers like Otto V

1 R N Gilchrist *Principles of Political Science* (1961) p 104

Gierke in Germany and F W Maitland in England supported the groups and associations as of great importance, and said that they had a consciousness and will of their own, and that each of the groups having a personality of its own made its contribution to the framing of laws Thus, these writers sowed the seeds of pluralism

Superior Legal Status to State While these thinkers were not prepared to arm the state with absolute sovereign power, they conceded to the state a superior legal status, which according to them, was needed to bring about co-ordination in the activities of the various associations Similarly, Figgis spoke of the various fields, in which different social groups could function usefully He cited the example of the church, whose functions and services were of *paramount importance to society in the middle ages* Other writers like Paul–Boncour and Durkheim also thought along similar lines The opinions of all pluralists are not the same, some believe that the state is *unus inter pares*, that is, one among equals, while others regard it as *primus inter pares*, that is, the first among equals

Laski Favours Coordinate Status to State As a pluralist, H J Laski's attack on state sovereignty is most cutting and relent less According to him, the state should be shorn off its absolute sovereignty, and should be degraded from the superior status to a coordinate status with other associations Laski who wants associa tions to be given complete autonomy is confident that a time will come, when state sovereignty will be as discredited as the Divine Right Theory of Kings Laski goes to the extent of saying that the legal theory of sovereignty cannot be made valid for political philosophy, and it would be good, if the whole concept of soverei gnty is surrendered Krabbe goes a step further in saying that " the notion of sovereignty must be expunged from political theory "

Laski's views on sovereignty can be summarised thus

(1) Sovereignty is not monistic but pluralistic

(2) Sovereignty is not absolute, but constitutional and respon sible

(3) The state cannot lay claim to a supreme position

(4) The state is one of the many associations, which play an important part in man's life the state can be only, *primus inter pares* or first among equals

(5) Associations must be completely autonomous

(6) Authority cannot be unitary, it has to be federal, as society itself is federal

(7) The state can act only as a co-ordinating authority among associations

Cole Advocates Consumers' Groups and Producers' Groups: G D H Cole, another advocate of pluralism pleads like other guild socialists for the formation of consumers' groups and producers groups, which are to be given co-sovereign status He goes to the extent of saying that national producers' guilds should be given legislative authority besides administrative This suggestion is indeed revolutionary, as it would bring the guilds on par with the state He also speaks of consumers' parliament and producers' parliament

Mac Iver s View The onslaughts on absolute sovereignty by MacIver are also terrific He condemns the legal concept of sovereignty as false, and speaks of the state as one among many associations, which are not the creations of the state The state should bring about co-ordination and unity in the activities of these numerous associations, which like the state, work for the common interests of the people

B Evaluation of Pluralist Ideas

We may briefly examine the merits and defects of pluralism

The following are the merits of pluralism

1 Importance of Associations The pluralists have rendered service in political theory by attacking the exaggerated importance given to the legal and monistic view of sovereignty and the undue glorification of the state Pluralists are correct in saying that the life of the individual fits into the pattern of social life, in which several associations do much for the individual, and without which there would be no progress of the individual in various fields

2 State Not Everything While the pluralists say that the state is something they refuse to concede that the state is everything, that it is all-inclusive and omnipotent and that its supremacy is unlimited Thus they try to bring into the sun the different social groups, which the advocates of monistic or absolute sovereignty throw into the shade In the light of pluralist ideas, it can be appreciated that a too narrow and legal view of sovereignty is harmful to the interests of the people and if the people's wishes are to be realised, the state must give proper representation to the different groups in society

3 Life Dull Without Groups Even the worst critics of pluralists have to admit that, by upholding the cause of associations, the pluralists give due credit to the social groups, through which members of society try to realize their aims and aspirations It is equally true that without these associations occupying a proper place, the life of any community would be dull and colourless The state should not be allowed to arrogate to itself the position and importance due to the social groups

4 Decentralisation of Power A very important idea that can be beneficially used from the theory of pluralists is that it is necessary to decentralise power and give as much autonomy as possible to associations

Demerits Pluralism has serious drawbacks, which are as follows

1 More Destructive than Constructive Pluralists seek to destroy more than what they can construct, and their doctrine in the ultimate analysis is untenable Theoretically, the suggestions of pluralists may appear sound or even grand, but a little examination of their ideas will reveal their hollowness and the dangers to which society would be exposed, if pluralism actually materialises, and associations are given a co-ordinate position with the state

2 Rise of Anarchy A cardinal point that has to be emphasized is that associations, whose cause the pluralists are championing, cannot exist without the sovereignty of the state Without state sovereignty, a country would present a picture of complete chaos and anarchy Obviously, the pluralists have not shown adequate seriousness in the study of the consequences of the division or destruction of sovereignty

3 Sovereignty Destroyed When Broken Pluralists virtually try to destroy sovereignty by dividing it Sovereignty cannot stand, if it is broken It is indeed strange that, after depriving the state of legal supremacy and putting it on a level with other associations, pluralists would like to give it the responsiblity of bringing about co-ordination and adjustment in the activities of associations It is difficult to understand how the state can be given responsibility without arming it with the required power Unless the state is armed with supreme authority to coerce the associations it will not be in a position to exercise supervision over them The very fact that the state is not superior to associations, according to

pluralist thinking, would make the associations bring it into contempt, when it issues orders without power to enforce them

4 **Conflicting Claims of Groups** The picture of a state dominated by pluralist ideas is most confusing The pluralist assurance that various groups would run on parallel lines, and there would be no overlapping of functions, and conflicting claims would deceive nobody Even now, in certain countries, the state is unable to maintain peace and order, because of the presence of refractory elements, what would be the condition in such countries if a hundred associations are given co-sovereign status one can easily imagine If the state is not supreme, the members of any association can withdraw their membership of state, such action by one association may be looked upon as a green signal by other associations, who can also join in bringing about the complete disintegration of their country "If a large trade union were to have powers independent of the state, a similar claim could be put forward for a village debating society, or, perhaps even for a criminal organization Further, pluralism is a doctrine of disruption and revolution, for it implies that international groups may have powers superior to those of national states"[1]

5 **Misleading Picture of State Despotism** The pluralists give a totally misleading picture, when they say that state sovereignty leads to despotism A study of the actual working of constitutions shows that except in states run on the basis of totalitarian ideas or states working on Hegelian ideas, individuals and associations are given adequate rights In democratic countries, the dignity of the human personality is upheld, and subject to the sovereignty of the state the individual enjoys fundamental rights If at any time, these rights are abridged, say during extraordinary times or national emergency, it is in the best interests of the individual and social groups The pluralists' presumption of the dangers of sovereignty has no basis, it has a place only in the pluralist imagination

6 **Confused Thinking** Pluralists, while claiming so much on behalf of associations, do not clearly explain how their ideas are to be fully realised The precise position of the state and state-association relations are not unambiguously defined There is much confused thinking on their part, and sometimes perhaps unwittingly, they admit the supreme power of the state

1 R N Gilchrist *Principle of Political Science* (1961) p 106

For instance, Miss Follett, a pluralist says "The state is a unifying agency My citizenship is something bigger than my membership in the vocational group The true state must gather up every interest within itself"[1] It is surprising that pluralists do not want the associations to be quite independent of the state, but at the same time refuse to give the state sovereign status

Conclusion The following conclusion can be drawn

(1) Pluralists have done well in upholding the importance of associations, for which they claim much autonomy

(2) They are however guilty of confused thinking

(3) They undermine the very basis of the state by breaking sovereignty

(4) They indirectly admit the need of a sovereign state, which can coerce all individuals and associations into submission

MAIN POINTS

1 **Pluralists** Laski Figgis, Barker Cole Lindsay Miss Follett and others

2 **Pluralism** Sovereignty should not be monistic but pluralistic (1) State not all-inclusive and all-comprehensive (2) Consciousness and will of social groups. (3) Laski favours coordinate status (4) Cole advocates consumers groups and producers groups

3 **Merits** (1) Importance of associations (2) State not everything (3) Life dull without groups (4) Decentralisation of power

4 **Demerits** More destructive than constructive (2) Rise of anarchy (3) Sovereignty destroyed when broken (4) Conflicting claims of groups (5) Misleading picture of state despotism Confused thinking

1 Miss Follett quoted in E Asirvatham *Political Theory* (1957) p 288

Section VI

THE STATE AND THE INDIVIDUAL

CHAPTER 17

LAW

The state acts through its instrument, the government, and the government interprets the will of the state in terms of law. Hence, law can be regarded as the vehicle of sovereignty. Sovereignty is something, which is abstract, but law is comparatively concrete, and this can be understood by the ordinary man. In a state law conveys sovereignty. "Any discussion of sovereignty involves the question of law. Sovereignty is a mere theoretical principle and does not have much meaning unless it expresses itself in and through law."[1]

A Definition and Meaning of Law

Rule Backed by State "A law is a rule of behaviour for the members of a state, the disregard of which meets with a penalty, which will be enforced by the state's machinery of power."[2] The term *law* is derived "from an Old Teutonic root *lag*, which means something which lies fixed or evenly."[3] Law is necessary to regulate social life, and without law there would be disorder and confusion. All rules and principles are not laws, though they may have the backing of the family or religion or public opinion. The state lays down that certain rules are laws. In other words, a law is

1 E Asirvatham *Political Theory* (1957) p 324
2 R H Soltou *An Introduction to Politics* (1961) p 76
3 R N Gilchrist *Principles of Political Science* (1961) p 160

a law because it is declared to be so by the state through the proper law-making organs, whether will of autocrat, act of Parliament, decision of Supreme Court 'It is not the issuing of the law that makes the state a state it is the force of the state that makes law law' as Hocking puts it"[1]

Coercive Authority Behind Law Law has to be distinguished from a social rule or custom Man sees that his conduct conforms to accepted social customs and rules, and is afraid that others may laugh at him, or his prestige in society may go down, if he acts contrary to social customs But he is not physically punished by any one for violation of social rules as they have no coercive authority behind them On the other hand, violation of the law made by the state is punishable Behind law there is a definite coercive authority Laws are made by the state, as interests of society demand that a certain minimum uniformity of conduct is essential Woodrow Wilson put it well, when he said that "a state is a people organised for law within a definite territory"

Features of Law Law has the following features

(1) Laws are applicable to all, and in democratic states, there is equality before the law

(2) Laws express the will of the state as regards the pattern of general behaviour of people

(3) Laws have the backing of the state, and they are interpreted by duly constituted courts of law

(4) Laws are precisely written down, and their violation would by visited by penalty, as laid down by law itself

(5) All individuals and associations are supposed to know the existence of law, and no one will be excused for breaking law on the ground of ignorance

(6) Laws are concerned only with the external acts of individuals

In the words of Holland, "a law is a general rule of action taking cognizance only of external acts, enforced by a determinate authority, which authority is human and among human authorities is that which is paramount in a political society or briefly a law is a general rule of external human action enforced by a sovereign political authority"

Whether Law is Command According to Austin, law is the command of the sovereign, who is a determinate human superior

1 Ibid p 78

ordering an inferior As noted in connection with Austin's Theory of Sovereignty, Austin can be criticised for saying that law is the command of the sovereign, as he completely ignores customs and traditions, whose importance is recognised even by courts of law Sir Henry Maine, the historical jurist says that Austin's definition is very narrow, and it does not take into consideration common usages and customs According to Sir Henry, law is based on political authority, customs and usages, and popular consent Woodrow Wilson brings about a compromise between the analytical view of Austin and the historical view of Sir Henry, and says that "law is that portion of established thought and habit, which has gained distinct and formal recognition in the shape of uniform rules backed by the authority and power of government"

Different Meanings of Law The term 'Law' is used in various subjects in different senses "It means one thing in political science and quite another in physical science Thus we speak of the Law of England, law of crimes, as well of the Law of Gravitation and the laws of motion The word 'law' in the first two expressions means certain uniform rules of conduct enforced by a political authority, while in the last two it means certain uniformities in the process of nature We also hear of Laws of Honour, Law of God, Law of Nature, Laws of Chess and so on"[1] Law also means a moral principle

Importance of Law Law is of great importance to man Without it, human beings in state would have no rules of behaviour Without law, the unruly elements of society would remain unbridled and they would do whatever they like to the utter detriment of the other members of society In most of the countries today, law is enforced properly, and not only people can live in peace and security, but can think in terms of securing their welfare "Without law there is no order, and without order men are lost not knowing where they go not knowing what they do A system of ordered relationship is a primary condition of human life at every level More than anything else it is what society means Even an outlaw group, a pirate ship, a robber gang, a band of brigands had its own code of law, without which it could not exist"[2] Law regulates the conduct of human beings, and orderly life is made possible

1 A Nandi *An Introduction to Political Science* (1955) p 116
2 R M MacIver *The Web of Government* (1959) p 61

B Different Schools of Jurisprudence

Law is viewed from different angles, and hence we have different schools of jurisprudence viz Historical, Analytical, Philosophical, Comparative and Sociological

1 The Historical School

Law Product of History According to the historical school to which Frederick Von Savigny, Sir Henry Maine, Sir Frederick Pollock and F W Maitland belong, law is the product of historical forces and influences, and it can be studied in relation to its environment and past history The state cannot be regarded as the maker of law, since people from primitive times themselves gave rise to certain habits, customs and usages, which provided a basis for the laws of the state The state only enforced, what the people themselves had evolved and accepted for obedience Thus, the people provide a true background and practical basis for law Even today, no law can stand the test of time, unless the people want it, and unless it has something to do with their customs and needs A law totally divorced from customs and usages will not be obeyed, but will remain a dead letter

Austin Criticised The jurists of the historical school criticise Austin, who regards law as sovereign's command, and who overlooks historical forces and influence of customs and usages Through the process of history law grows As customs and usages grow law undergoes changes Law cannot be a mere order of a superior to an inferior entirely divorced from historical forces and influences of environment

Evaluation The historical school has done well in explaining the tremendous importance of customs, traditions and usages in the evolution of law

The view of the school however is defective (1) It ignores factors other than customs, and thus has not spoken the whole truth (2) Its attitude is conservative and it looks suspiciously of human efforts made in modern times to enact legislation

2 The Analytical School

Law is Command According to the analytical school to which Jeremy Bentham and John Austin belong, law is an order issued by the sovereign of the state (who is a determinate human superior and whose power is absolute) to his inferiors This school was inspired by the ideas of Hobbes A law is regarded as law because it is proclaimed by the sovereign as his order

Criticism The analytical school has been strongly criticised on the following grounds

1 **Law Not a Mere Command** That law is only a command from a superior is incorrect, as law is the product of various factors and not of a mere command by a sovereign Law has its roots in the past, and has much to do with various kinds of influences

2 **Law and Command Not Synonymous** Law and command of a superior are not synonymous Mac Iver is of the opinion that law is the antithesis of command, for a command seeks to separate the giver from the receiver, while law unites the legislator and the ordinary citizen through its general applicability to all Austin's sovereign is above law and is absolute This is not true, in a democratic state, as members of parliament or ministers have to respect law like others Law in the modern state is universally applicable, and thus it unites the law-maker and the other people

3 **Commands Temporary** Commands or orders, as used in the Austinian sense, seem to be temporary in their tenure, while law, as we understand it today, is made for a long period Generally, we speak of temporary orders of government officials in the day-to-day administration, but as regards law, we give it the attributes of stability and permanence

4 **Artificiality** Law as conceived by the analytical school looks artificial as it has its roots only in the order of a determinate superior, and as it ignores customs, conventions and usages

5 **Conservative** The ideas of the analytical jurists are conservative As law is the order coming from an absolute sovereign, it is static and not progressive That historical evolution contributes much to the formation of law is not recognised by the analysts

3 The Philosophical School

Law to Breathe Spirit of Justice The philosophical school of law, whose leader is Joseph Kohler in Germany is of the opinion that philosophical standards should be applied to the juristic system The school is not very much concerned with actual law, whether of the past or present but is obsessed by the idea of doing justice through ethical principles According to it, the legal systems must be ideal It believes in the law of nature of the eighteenth century and wants law to breathe the spirit of justice

Too Idealistic The approach of the philosophical school is too idealistic to be real or practicable It deals with abstractions which are far away from the real state of affairs

4 The Comparative School

Comparative Study Scholars of the comparative school would like to make use of the material in biology, comparative philology and anthropology and other subjects for comparing the various legal systems of the past and present and drawing inferences The comparative study by this school has been of great practical value

5 The Sociological School

Law Pre-political The approach of the sociological school of law to which Duguit, Krabbe, Gumplowicz and Holmes belong is sociological and pragmatic These scholars would like to connect law with social ends Unlike Austin and others, these scholars say that law is not the command of the sovereign, and that it existed even before the state was born

Law To Serve Social Purpose Law grew spontaneously in society, and it exists in the state with the definite purpose of serving society All the thinkers of this school do not fully agree with one another, but there is uniformity of opinion among them that law, the child of social forces should meet the needs of society They also agree with the point that the sovereign state was not the creator of law As Duguit points out, law regulates human conduct in society, and people obey law not owing to fear of a penalty but because they are naturally conscious of its need According to Duguit, human beings as members of society observe certain rules and regulations, which take the shape of laws It is the duty of all to honour and obey them Psychologically men feel like obeying laws, and it is wrong to imagine that fear of punishment alone makes people law-abiding Human psychology itself explains why men have customs and rules and why they obey them

Law Just and Good According to Krabbe, law is superior to the state, and is also independent of it It is concerned with man s inner nature and is obeyed, because people feel, according to their standard of judgement that it is just and good for them Laski also has made the same approach to law ' For the end of law is the satisfaction of human wants That means not the wants of a few, not the wants deemed right by those applying the law, but the totality of wants encountered by law Law, therefore, to be justice, must be the expression of relations found adequate in the experience of men "[1] The source of law is the human mind,

[1] H J Laski A *Grammar of Politics* (1957) p 276

which gives its willing consent to obey it, for it does good to human beings, and fulfils their desires

Evaluation The sociological school is right, when it says that law is not a mere command of a sovereign, and that it rose to serve social purposes

But its views have the following defects

(1) Usages may be pre-political, but law is not A state is organized for law

(2) It is incorrect to say that law is not the command of the sovereign, as law has coercive power behind it

(3) All laws may not serve a good purpose and meet the needs of society

(4) Law cannot be independent of state

Conclusion The following conclusion can be drawn from the study of the various schools

(1) Each school of law has made its own distinct contribution to the study of law

(2) None of the schools speaks the whole truth, as it studies only one aspect of law

(3) All laws are not commands of the sovereign, all laws are not customary, and all laws are not the means of securing human welfare

(4) An adequate explanation of law can be had by collecting the grains of truth given by the different schools of law

C Sources of Law

Speaking strictly, in the legal sense, the state is the source of all law But this explanation is too simple, and does not consider the causes which gave rise to law We have to go deep into the matter In ancient times, law was customary, and was very simple, but our social problems and needs are complex Law itself has become complex, and unlike in the remote past, there are lawyers now

According to Prof Holland, there are six sources of law religion, custom, adjudication, scientific commentaries, equity and legislation

1 Religion

Religion is one of the sources of law

Sanction behind Custom As observed before, religion played a vital role in the evolution of the state and law In primitive

society, law was customary, and the driving force behind it was religion It was difficult to distinguish between religious law and customary law The power of magicians and priest kings in ancient times represented the vital force of religion Religion was a matter of life and death to human beings, and no custom could have any validity without it sanction Primitive men believed that law had a divine origin In the early states of the world, laws of kings had a religious sanction behind them, in fact, many kings themselves were priests The powerful role of religion as a sanction behind law in the ancient states of Egypt, Mesopotamia, India, Greece and Rome is well known The great king Hammurabi (c 2200 B C) of Babylonia, desiring to have divine sanction for his Code made the people believe that it (the Code) was a divine gift The Codes of the *Pentateuch* or the first five books of Moses also referred to God's authority Even in modern times, the influence of religion on law is great For instance, Hindu Law is based on the *Code of Manu* and Mohammadan Law on the *Koran*

2 Custom

Custom is another source of law

Early Law Customary It is very difficult to say how and when exactly customs rose "When a person invents a particular method of doing a thing and is imitated by others, a custom gradually comes into existence A custom, as Prof Holland points out, is formed in much the same way as a path formed across a field "[1] Habits and usages in families, clans and tribes must have grown into large bodies of customs in course of time Though customs cannot be put on a level with laws, law-makers have recognised their paramount importance This attitude of law-givers made customs have almost the same status, as law, and therefore laws breathe the spirit of long-standing customs and usages The different schools of jurists directly or indirectly admit the importance of customs

What is done repeatedly by people generation after generation for the sake of convenience, becomes a custom, and people instinctively obey the dictates of custom to which they are habituated Customs are evolved because they definitely serve a social purpose Before man knew the art of writing, laws were customary Even after the art of writing was learnt, customs played a very important part in a state for when the king issued orders

1 A Nandi *An Introduction to Political Science* (1955) p 120

to put law in a written form, the age old customs and usages had to be taken into consideration The *Code of Hammurabi* in Babylonia, the *Codes of Draco and Solon* in Greece and the *Laws of the Twelve Tables* in Rome had much to do with the customs of the people in the respective countries In India, the various law-givers like Manu and Yajnavalkya had to give due prominence to the role of custom, while preparing their codes Even now, in almost all the countries of the world, customs and usages, which really form a code of unwritten law are given their due weight in the administration of justice by the law courts An excellent example of customs and usages is the *Common Law* of England

All Customs not Recognised In appreciating the importance of custom, it must be noted that in modern times, all customs having their roots in the remote past are not recognised, and law is not based on them On the contrary, sometimes, law has to be passed to eradicate evil customs, traditions and usages, which go against the interests of the community For instance, Lord William Bentinck's government in India had to pass laws to eradicate the evil customs of *sati*, female infanticide, and child marriage Similarly, according to the Constitution of India and law, the practice of untouchability is a cognisable offence, even though it has the sanction of long-standing tradition In England, only customs which are reasonable and not against law and morality, and those which refer to legal relations are given importance and recognition by law "It is not easy to say at what point a system of law emerges from custom and religion Somewhat arbitrarily we can pick the point at which the priest, who is almost always associated with the interpretation and enforcement of rules of social behaviour in primitive societies, is able to supplement the sanctions of custom and religion by calling on some reservoir of organised physical force to enforce his decrees When this happens we can say that the priest has become a judge, and the rules that are enforced in this way are law"[1]

3 Adjudication or Judicial Decision

Judicial decisions form another source of law In very ancient society, whenever quarrels or disputes took place between two or more individuals or groups, the matter was referred to the leader or the wise man of the tribe who taking customs and usages into consideration gave his verdict When customs and usages were inadequate to deal with a particular dispute, the tribal leader must

1 J A Corry *Democratic Government and Politics* (1958) p 424

have used his common sense or individual discretion in giving his verdict In settling disputes, the adjudicator gave oral decisions which could be referred to in later cases To make use of a modern term, judicial precedents were made In course of time, decisions were put in the written form Even in modern law courts, when a particular law has a snag, the judge has to make a new rule

4 Scientific Commentaries

Scientific commentaries constitute another source of law In the evolution of law, scientific commentaries given by competent jurists, writers and critics play a prominent part By giving a systematic treatment to customs, usages, conventions, judicial decisions and laws, *commentators place a great wealth of knowledge at* the disposal of judges, lawyers and constitution-makers The general legal principles evolved by reputed jurists are of immense value, as they help the courts of law and the bar in the administration of justice These are different from verdicts as they are not binding on any body These writers or critics of law are not necessarily judges Yet their commentaries carry weight by virtue of their scientific study and wide reputation They are recognized by government, and are given the attention due to judicial decisions "The opinion of learned writers on law have often been accepted as correct law in England, for instance, the opinions of Coke and Blackstone, in America of Story and Kent, and in India of Vijnaneswara and Apararka "[1]

5 Equity, Use of Commonsense and Discretion

Another source of law is equity Equity in common usage means justice or fairplay or "moral justice, of which laws are the imperfect expression " Sometimes in a court of law the judge finds that the true ends of justice cannot be met with the help of the existing law, as a particular point may be ambiguous or law may be absolutely silent on the point The difficulty is solved by the judge by the application of his own sense of justice and fairplay Thus, the judge makes a new law in the interests of impartial justice The body of newly created laws is called equity, which not only adds to the existing laws but makes them flexible or less rigid "Equity comes into existence when civil law becomes rigid and inelastic and is found difficult of adaptation to new conditions "[2] According to Sir Henry Maine, equity is "any body or rules existing by the

1 A Appadorai *The Substance of Politics* (1957) p 68
2 A Nandi *An Introduction to Political Science* (1955) p 123

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[2] A Nandi *An Introduction to Political Science* (1955) p 123

side of the original civil law, founded in distinct principles and claiming *incidentally* to supersede the civil law in virtue of a superior sanctity inherent in those principles"

Equity in Rome and England In ancient Rome, when cases to settle which the existing law was found inadequate, came before the government, a judgement based on commonsense and fairness was given Thus, a new principle of law was laid down, this was equity The Praetor in Rome and the Lord Chancellor in England created principles of equity It must be noted that equity applies to civil cases only and not to criminal cases "In England the beginning of equity legislation is to be traced to the custom of giving to the Lord High Chancellor, complaints addressed to the king which were *not met by the existing common law These appeals* were made to the king's justice or conscience, and were referred to the *keeper of the king's conscience*, or the Lord High Chancellor (*modern Lord Chancellor*) who received powers to remedy injustice according to equity, or fair dealing, or the moral law"[1]

6 Legislation

In modern times, when the three organs of government—executive, legislature and judiciary—were clearly distinguished, the *legislature was assigned law-making as its chief function* Most of the laws now-a-days are passed by the legislature Thus legislation has become the most important source of law at present It is however, true that the big historical background of custom religion, equity, precedents and other factors have to be borne in mind by legislators while making law

D Development of Modern Law

Let us briefly trace the development of modern law

European Law Derived from Roman and Teutonic Sources Modern European law is derived from two sources viz Roman and Teutonic Rome gave a uniform system of law, and law was the order of the state routed through the various government officials The barbarians, who destroyed Rome had a type of tribal law In the Dark Age (i e the five centuries following the death of the Roman Empire), Roman law yielded place to the tribal law of the conquering groups like the Franks and the Goths These groups, however, were unable to destroy the legal edifice of Rome which influenced Europeans in modern times

1 R N Gilchrist *Principles of Political Science* (1961) p 167

Between Roman Law and Teutonic Law, the former became more important Certain factors were responsible for the powerful influence of Roman law

(1) Roman law was in Latin, the medium of scholars and jurists

(2) It was easy to refer to the *Code of Justinian*

(3) The Church, one of the unifying forces in the middle ages followed the organizational methods of the Roman Empire

(4) Lawyers studied Roman law, and did much to continue the Roman form and spirit

Common Law in England England developed her own system of law, though the ecclesiastical courts were much in favour of the Roman system The king in England too liked the Roman system, as it gave him more power However, the will of the clergy and the will of the king could not prevail against the independent system developed by the English Courts England developed the system of common law and civil law side by side English law mostly followed Teutonic customs "The common law is unwritten law in the sense that there is nowhere to be found a compendious set of written rules that authoritatively state that law Plenty of books have been written on all branches of the common law and they are of great assistance in finding the law Yet none of them is in any sense binding on the courts, which must always base their decisions on some earlier decision of a court, called a precedent "[1]

Civil Law in England In England civil law is written law, and it takes the form of an authoritative code of general rules "The term 'civil law' is a confusing one Uncapitalised, the term refers generally to that part of the law which governs claims made by one person against another, usually for compensation, where damage has been inflicted or contracts have been violated When capitalised, Civil Law refers to the law of the European continent and non-English-speaking America "[2]

Hindu and Mohammadan Law in India When the British became rulers in India they saw two types of legal systems viz Hindu and Mohammadan The Hindu Law was based on the Codes of great ancient law-givers like Manu The Mohammadan Law was based on the *Koran* and its commentaries The British respected the ancient customs and traditions in India, but got rid of evil

1 J A Corry *Democratic Government and Politics* (1951) p 431

2 J S Roucek & Others *Introduction to Political Science* (1958) p 154

customs like *sati* The Declaratory Act of 1780 passed in the days of the British East India Company recognised in India laws pertaining to succession and inheritance Under British rule, laws were codified along English lines, and various Acts like the Evidence Act and the Penal Code were passed

E Kinds of Laws

We shall briefly examine the meaning of various kinds o laws National Law and International Law, Constitutional Lav and Ordinary Law, Municipal Law, and Common Law and Civil Law in England

1 National Law and International Law The law of the state whose jurisdiction applies to all the people within the state is called national law All have to obey national law, and its violation is punishable International law is meant for regulating the conduct of various states in the world In ancient times national law was called municipal law National law has the backing of the power of the sovereign state, while international law lacks such a sanction All states are sovereign, and are on an equal footing and theoretically none can be coerced into submission by any power on earth International law has force only to the extent to which it is recognised and accepted by the different states of the world No state can be coerced into obedience by an international court Only when a world state is formed, and all states surrender their sovereignty to it, world courts can enforce the laws of the world state

2 Constitutional Law and Ordinary Law The law according to which the people in a state are governed is called ordinary law and the law according to which the state should conduct itself is called constitutional law

Principles of Governance The basic principles according to which government is conducted are described by the term 'constitution The structure of the state, the distribution of power, the scope of authority and other basic matters are given by constitutional law A constitution is either the product of history or the work of a constituent assembly Government can exercise its powers only according to the written or unwritten principles of the constitution

Relations Between Government and Citizens The principles according to which the state rules over the people is ordinary law It lays down the relations between the government and the citizen as also between one citizen and another Ordinary law has

its roots in the past and is influenced by the forces of religion, customs and usages In modern times, legislatures make the ordinary law according to a certain procedure

Ordinary law is of two categories (1) Public Law, and (2) Private Law

(1) Public law deals with the relations between the individual and the state The individual is obliged to obey this law failing which he will be punished

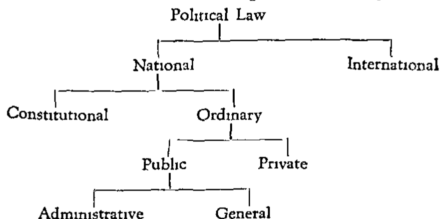
(2) Private law deals with the relations between one individual and another Just as indiuidval state relations are regulated, relations among individuals themselves are regulated Every individual is provided with rights by law Rights are not absolute, but are subject to restrictions

Administrative Law and General Law In some states, public law is of two kinds viz Administrative Law and General Law Administrative law regulates the relations between the state and its officials, and general law regulates the relations between the state and its private citizens

3 **Municipal Law** The expression 'municipal law' was used in ancient times, it is the law of a state dealing with individuals and associations Hence it is a combination of public law and private law Now this law is generally called national law

4 **Common Law and Civil Law in England** Common Law is the unwritten law of England, and as stated earlier, no book of law can authoritatively explain the contents of common law Un like common law, civil law is in written form, and judges have at their disposal an authoritative code of civil law

Mac Iver classifies laws according to the following table



F Law, Morality and Justice

We shall briefly examine here the meaning of law, morality and justice

Law Concerned with External Acts The state expresses its will through law, and is concerned only with external acts of man as a member of the state The state punishes a person, when his external acts violate law

Though the state directly does not deal with principles of morality and is never concerned with making a man moral, it can go a long way in creating conditions, which are conducive to the growth of moral principles Political science dealing with state and government, and ethics dealing with morality are both social sciences, and both deal with man and his general welfare, though they lay emphasis on different aspects of man's social life

Law and Morality The difference between law and morality has to be noted Law takes into account only the external acts of individuals, and punishes them, if they go contrary to it, but law does not try to discover moral lapses Uttering falsehood or entertaining bad and ignoble thoughts is morally wrong, but law does not punish the morally guilty individual, provided he does not harm others outwardly Law is clear in its content, and has coercive sanction which morality does not have

The difference between law and morality has to be noted

Law	Morality
1 Concerned only with external acts of man and not with his inner motives	1 Concerned with the whole life of man, and covers internal motives and external acts
2 Is the concern of the state	2 Is the concern of conscience
3 Is concerned with a part of a man's life	3 Is concerned with the whole of a man's life
4 Violation of law is punished by the state e g robbers or murderers are punished by government	4 Violation of moral principles as far as it does not disturb law and order is not punished by law e g greed, meanness and anger are not punished

Law	Morality
5 Force is the sanction behind law	5 Moral force and fear of God, conscience or society form the sanction behind moral principles
6 Law is definite and precise	6 It cannot be said precisely what is moral or immoral at times, many things are vague
7 Law is objective	7 Ethical law is subjective
8 Law of a state acts within the state only	8 Morality is universal
9 Law is passed for the sake of convenience and expediency, and it does not demand absolute standards	9 Morality demands absolute standards
10 What is legally wrong need not necessarily be morally wrong, and what is legally right may be at times morally wrong	10 What is morally wrong may or may not be legally wrong
11 There is a definite body to make law, and another body to interpret it in a modern state	11 Moral law does not have such bodies for making it or enforcing it

Law Not to be Divorced from Morality Law should not be divorced from morality On the contrary, law and morality should be happily married or at least efforts should be made to bridge the gap between the two A law cannot command loyalty, if it is immoral *Though the chief function of the state is not to* reform the morals of a country, it owes a duty to the people to see that it creates conditions favourable for the development of the human personality Immoral laws or laws which are not conducive to the growth of morality cannot enable a person to develop his personality fully in a state Human beings are moral agents, and if they are bad and immoral, the state cannot be good The state functions for the sake of individuals on whom depends the nature of the state There cannot be a great state, unless individuals have great minds, and are concerned with

principles of morality In ancient times, a Greek philosopher aptly said "The best state is that which is nearest in virtue to the individual If any part of the body politic suffers, the whole body suffers"

Modern states, which are wedded to the principle of promoting the welfare of the people, pass good laws in keeping with morality, and repeal laws, which are morally harmful to the people In India, many sins were committed and cruelty practised by the Hindu society in the name of *dharma* The evil custom of *sati*, in which society forced a woman to burn herself along with the corpse of her husband was immoral and sinful Lord William Bentinck made illegal what was cruel, immoral and sinful As an enlightened administrator and statesman, he tried to approximate law and morality Exploiting the poor and the weak, or *robbing* them directly or indirectly is always immoral, but it was not regarded as illegal in the past Now, states have a new awakening, and they have passed laws to do justice to the people In Modern India, particularly since the commencement of the Constitution of India in 1950, much has been done to narrow down the gap between law and morality Laws calculated to eradicate untouchability or to bring about the uplift of women are clear examples to show that, while making laws, our own government is giving due weight to moral values

Law and Justice Law seeks to give justice, but it is not justice itself Courts of law are often wrongly referred to as temples of justice A judge with all his keenness to be just fair and impartial may not be able to do full or even partial justice, though in the legal sense his verdict may be sound That is why it is said sometimes that courts give law but not justice What courts of law give is justice in the legal sense rather than in the moral sense A judge is bound by the principles of the written constitution and of the written code of law, and he cannot go contrary to them even if he feels like doing so morally "The law by its very nature consists of general rules, which cannot possibly weigh the subtle and intangible considerations demanded by an ideal standard of justice Law can, therefore, by equated with justice only in the sense of legal justice"[1]

G Resistance to Law

Resistance a Duty or Crime Most of the people in a state obey law or rather they cannot go against it for some reason or

1 J S Roucek and Others *Introduction to Political Science* (1954) p 146

the other Law is a means to an end, and not an end in itself It is possible that a government passes a bad law Then, can the individual resist it or break it? Resistance to law is never a right, it is either a crime or a duty If an individual feels that a law is unjust, it is his duty to resist it From the point of view of the state, resistance is a crime What is regarded as a duty of the individual is a crime in the eyes of the state It is difficult to judge, when exactly a citizen should do the duty of resisting the state, as there is no criterion to know what is just or unjust Justice, many a time is something, which is subjective It is possible that the individual, who wants to resist law makes a subjective and not an objective approach

Certain principles can be laid down for the guidance of those, who desire to resist law

(1) A law must not be resisted merely because one dislikes it personally

(2) Resistance must be regarded as a serious step, and must not be treated lightly

(3) Resistance must be open and never covert The purpose of defying law is to focus public attention on the injustice in law, and hence secret resistance becomes meaningless

(4) The precise aim of resisting law must be clearly known The aim should not be selfish and it should be in the interests of society as a whole

(5) Resistance must be offered as a last resort, when all peaceful and constitutional means are exhausted

Those, who resist the law of the state and violate law claim that they are obeying the dictates of conscience, but those in power in a state claim that they have right to put down any opposition to the duly constituted state and violation of its laws Matters of conscience are many a time highly controversial Conscience or the inner voice differs from individual to individual What an individual does according to his conscience, may be harmful to the community at large

Here, we may take note of the views of T H Green, H J Laski and Mahatma Gandhi on resistance

View of T H Green

T H Green in his *Principles of Political Obligation* allows the individual the right to resist law, but only under certain conditions The individual has to examine whether the law, which

he wants to resist is for the good of the majority of the people A law, which he may not like may be liked by the bulk of the people, and it may be in the larger interests of the people He should not offer resistance against such a law But, if he finds that a law is contrary to the interest of all or most of the people, he may try to offer resistance This does not mean that he should begin to disobey it without finding out methods of getting it repealed In a democratic state in which there are legal and constitutional methods of amending or repealing a bad law, the individual should make use of all these methods The legal and constitutional process may take time, but the individual should not choose to violate it Till the bad law is repealed, as a good citizen, he should continue to obey it

It is possible, that a government even in a democratic state may be bad, oppressive and corrupt, and it may pass laws to favour a few at the cost of the many If there is a bad law made by a bad government, the individual may think of offering resistance, but here resistance is not a right, but a painful obligation

Green says that the individual who wants to resist a particular law or laws should examine himself thoroughly to see whether he is morally justified in offering resistance He should ask himself certain questions to find out whether the contemplated step of resistance should be taken (1) Have I used all the legal and constitutional methods of repealing the bad law ? (2) Is my contemplated step the result of cool judgement ? (3) Are the people for whose sake I think of offering resistance fully satisfied that resistance is the right step ? (4) Do I have the necessary moral calibre to launch a resistance against law ? (5) Is the law against which resistance is planned really so bad as to require resistance ? (6) Are my aims enlightened and selfless or selfish and egoistic ? (7) What will be the results of resistance and will the situation improve by my action ?

From all this one can realize that Green allows resistance only under exceptional circumstances, and by individuals who are morally competent and motivated by a spirit to serve really noble ends Those who fully qualify themselves to undertake the job of resistance must be very few and far between

Sometimes, an individual may have to resist, even if the prospects of success are dim A person belonging to a small minority may think of offering resistance after feeling that he is morally

justified to resist and that he will be failing in his duty as a citizen if he goes on rendering obedience to the bad law

View of H J Laski

H J Laski is in favour of the individual offering resistance if his conscience is satisfied The state should provide the individual with the necessary conditions for the development of his personality, and the laws of the state should aim at the fulfilment of the aims and aspirations of the individual The individual will have to try all constitutional methods to get laws repealed, if they are bad and oppressive If he fails, he can violate the laws, because obedience to tyrannical and evil laws is a greater evil than disobedience

View of Mahatma Gandhi

Mahatma Gandhi was a great and noble citizen, who felt that he would be failing in his duty if he did not offer resistance to bad and unjust laws In South Africa, he offered resistance to uphold the cause of justice and equality on behalf of Indians, against whom the most degrading type of discrimination was practised

In India, Gandhiji appealed to the British Government to be fair and just but it turned a deaf year to him, therefore, he thought that he should offer resistance to the bad and unjust laws The resistance movement of Gandhiji became a part of the larger movement for *swaraj*

Mahatma Gandhi followed very strict standards of conduct, and all were convinced that he was acting as a true *mahatma* a great soul His resistance was completely non–violent, and it was based on truth

(See Chapter 35 for details)

MAIN POINTS

1 Meaning of Law Vehicle of Sovereignty Rule to regulate human behaviour in state Breach of Law followed by penalty Law is proclaimed by state

2 Features (1) Universally applicable (2) Expression of will of state regarding the pattern of general behaviour (3) Backed by coercive authority of state (4) Ignorance of law no excuse (5) Law concerned only with external acts of individuals

3 Different Schools of Law (1) Historical School Law product of history and not command of sovereign Henry Maine Maitland and others HS partly correct Ignorance of factors other than custom (2) Analytical School Jeremy Bentham and John Austin Law command of sovereign Theory incorrect. Artificial

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conservative and anti-democratic Law and command not synonymous (3) Philosophical School Law to breathe spirit of justice (4) Comparative School Makes use of material in various subjects for comparative study (5) Sociological School Law pre-political Law to serve social purpose Law just and good according to Krabbe Theory partly correct Defects Law cannot be prepolitical All laws do not serve social purpose

4 **Sources of Law** Several sources (1) Religion Early law had sanction of religion Law codes had religious basis (2) Custom Early law customary Defect. All laws not based on custom (3) Adjudication Decisions of leader of tribe. (4) Scientific commentaries Coke Blackstone Vijnaneshwara etc (5) Equity Use of commonsense and discretion by judges (6) Legislation

5 **Development of Modern Law** European law derived from Roman and Teutonic sources Rise of common law in England Civil law in England written. Hindu and Mohammadan Law in India

6 **Kinds of Law** (1) National within the state For various states in the world International Law IL has no backing of sovereignty (2) Constitutional Law gives basic principles of government Ordinary Law regulates relations between government and individuals Public Law and Private Law are two types of OL (3) Municipal Law is state law

7 **Law Morality and Justice** (1) Law concerned only with external acts Morality concerned with conscience and with the whole of man s life Morality and law to be reconciled (2) Law not synonymous with justice Law stands for general rules and gives legal justice

8 **Resistance to Law** Normally law to be obeyed Resistance is a moral duty or a legal crime Resistance should be the last resort and that too in exceptional cases involving public good

CHAPTER 18

CITIZENSHIP

A Meaning of Citizenship

Citizen in a Narrow and Broad Sense The term *citizen* can be understood in a narrow or broad sense In the narrow etymo logical sense, it means the resident of a city or one who has the privilege of living in a city Taken in a broad sense, *citizen* means any resident (except aliens) living within the territorial limits of a state In a modern state all members are its citizens Indians residing in the cities of Delhi, Bombay, Calcutta, Madras and Bangalore are citizens, those living in small towns and villages are also citizens In other words, all members of the Sovereign Demo cratic Republic of India are its citizens The term *citizen* was used by the ancient Greeks According to Aristotle, "he who has the power to take part in the deliberative or judicial adminis tration is said by us to be a citizen of that state " Citizenship in the modern states cannot be compared to that in the ancient city-states, as modern states are large territorial states with huge population Modern citizens are under no obligation to take part in the deliberative or judicial administration of the state In a modern state, a citizen is its member who enjoys full civil and political rights In these days, when slavery does not exist, every member of the state (foreigners temporarily living in the state excluded) is a citizen Citizenship implies the performance of various duties imposed by the state as well as the full enjoyment of rights

In an ancient Greek city state, all residents were not citizens They formed a minority, as a majority of people were excluded from citizenship Women, slaves and foreigners were not citizens.

Citizens and Aliens An individual is regarded as a citizen provided he lives within the territorial limits of the state and obeys the laws of the state in every respect, and is absolutely loyal to the state Loyalty or allegiance to the state means the citizen respects the laws of the state and is always ready [illegible]

the state most loyally On the other hand, within the area of the state, there are others, who are not citizens owing loyalty to the state They are aliens or foreigners, that is, individuals belonging to another state and owing allegiance to that state Aliens reside in the state temporarily as diplomats or business men or students or they are casual visitors or tourists Though aliens owe loyalty to the state to which they belong, they have to obey the law of the state in which they stay temporarily Aliens have to pay taxes to the state in which they live They are entitled to the full protection of law in the state, but they are not given political privileges like voting or standing for election and normally holding jobs under the government

Theoretically, all citizens are equal before the law, but actually in some countries, in the light of certain restrictions regarding political matters, all do not enjoy full political rights, though they are given full protection of the law For instance, if law lays down that voters should be property-holders or should have certain minimum educational qualifications, many citizens actually do not enjoy franchise, and hence cannot secure all political rights. As far as Indians are concerned, except the qualification regarding age, there is nothing to prevent a citizen (who is not a criminal or insane) from exercising his franchise at the general elections

Natural and Naturalised Citizens There are two types of citizens viz (1) Natural citizens or citizens by birth (2) Naturalised citizens by adoption These terms are self-explanatory Normally, a child born to a citizen in a state grows to become a citizen of the state The question of naturalised citizenship comes only, when a citizen wishes to give up his natural citizenship and adopt the citizenship of another state For instance, an Indian who goes to the USA may wish to give up his natural citizenship of India and apply for the naturalised citizenship of the USA

B How to Acquire Citizenship

Citizenship can be acquired in the following ways

1 *By Birth* Birth within the territory entitles a person to citizenship As far as English law is concerned, the meaning of the term 'birth' is extended to include birth in an English ship or in a British embassy The ancient Romans made a simple rule that the place of birth must be the deciding factor for citizenship But this simple rule is defective The place cannot decide the matter of citizenship, because at times the birth place is accidental A child accidentally

born outside the boundaries of a state should not be forced (as this rule says) to accept the nationality or citizenship of the foreign state in which it is accidentally born Therefore, the Roman rule has not been followed by all states Different states have their own rules Some states follow the rule of blood descent, irrespective of the place of birth of the child Other states make territory of birth the sole basis of citizenship and according to this, the children of citizens of the state or those of foreigners staying in the state become citizens by virtue of their birth within the territory Some other states follow a *via media* For instance, states like England, the USA and France have rules according to which citizenship goes to the children of citizens born in the country or abroad and to the children of foreign parents in their country

2 *By Marriage* When a lady marries, she becomes the citizen of the state to which her husband belongs

3 *By Naturalisation* Citizenship through naturalisation can be had by the following ways (1) *Domicile* A foreigner domiciled in a state can automatically become the citizen of that state (2) *Choice* Children of foreign parents can have citizenship of the state if they so choose (3) *Marriage* A foreign woman acquires citizenship of a state when she marries the citizen of that state (4) *Government Appointment* A foreigner appointed to serve the government of a state can become citizen of the state by virtue of the appointment (5) *Application* A foreigner in a state may apply for the citizenship of the state and the government may consider the application on its merits and grant citizenship with or without conditions

Naturalisation and Denization Citizenship by naturalisation may be partial or complete A naturalised citizen, for example, may get only part of the rights, which a natural citizen gets For instance he may be granted protection of life and property, but not the right of occupying high posts, which ordinary citizens have Only those acquiring, what is called grand citizenship, can aspire to reach the highest post in a state like natural citizens Generally, citizenship by naturalisation is granted on the condition of residence in the state for a certain minimum period, say, five years In England, a difference is made between naturalisation, which is the product of parliamentary act and denization, which is the effect of executive action Denization is on a lower level

than naturalisation A naturalised citizen in England enjoys the same rights as a natural citizen, whereas a denizen secures only some rights Particularly, the denizen is under great handicaps in public life, for example, he cannot become a member of parliament or aspire to occupy very high posts

4 By Exceptional Conditions Sometimes a state is confronted with the problem of granting citizenship to the people of a large area, quite unlike giving citizenship in isolated cases. Such situations arise when a territory is handed over by one state to another or in the case of annexation When a state acquires new territory by annexation, the people of this territory become the citizens of the acquiring state for example when California, Alaska and other areas were annexed by the USA, the people in these areas become US citizens In the case of ceded territories, people may retain the citizenship of the original state according to the terms of the treaty

C Loss of Citizenship

D Rights and Duties of the Citizen

Rights All citizens enjoy full civil and political rights (1) right to get protection from the state, even when one stays abroad, (2) right to reside permanently in the state, (3) right to vote, (4) right to hold public office, and (5) right to petition or form association

Aliens are not given these rights Aliens and citizens are on the same level as far as private law is concerned

Duties A state cannot exist without citizens, and there will be no activities if the citizens do not work and cooperate with one another Citizens have to discharge the following obligations The laws of the state must be obeyed, and in case citizens violate laws, they are liable to be punished This is essential, because the edifice of the state will collapse, if laws are not obeyed Without laws the interests of society cannot be protected (2) The citizen must be absolutely loyal to the state and must serve the state whole-heartedly There are several ways of serving, viz (1) defending the state in times of emergency by joining the army, (2) by helping the police and government officials in the discharge of their duties, (3) casting one's vote during elections, (4) paying taxes, and (5) holding public offices

Roucek and others lay down certain minimum activities for citizens for meeting the challenge of democracy in modern times These are (1) maintaining free public education, (2) learning to settle differences in a spirit of good-will (3) developing one's own knowledge and responsibility in public affairs, (4) practising an honourable life in all activities, (5) thinking and acting in terms of world responsiblities (6) vigilantly maintaining a government subject to democratic control, (7) maintaining a government which is competently managed, (8) insisting on efficient public personnel, (9) demanding peaceful domestic and foreign policies, and (10) preparing to become an active participant in government [1]

E Hindrances to Good Citizenship

Ignorance, Selfishness and Party Feeling The ideals of good citizenship are very high, and normally they cannot be realised Even then, one has to admit that in some Western countries the standard of citizenship is indeed lofty but in many countries, the

1 *Introduction to Political Science* (1954) p 196

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There is no uniformity as regards the conditions leading to the loss of citizenship, as laws vary from state to state, but it is possible to have some general conditions bringing about forfeiture of citizenship Citizenship may be lost owing to the following

(1) **Accepting Foreign Citizenship** A person loses his citizenship, if he becomes the citizen of another country by giving up the citizenship of his own country While some countries do not allow their citizens to give up their citizenship, others allow resignation only during the period in which the person remains in a foreign country

(2) **Entering Service of Another Government** According to the law of certain countries, a person loses his citizenship when he enters into the service of another government

(3) **Accepting Foreign Titles** Certain acts like accepting foreign titles or decorations or running away from the army or committing crimes or other acts which are condemned by the judiciary also lead to loss of citizenship

(4) **Prolonged Absence** Prolonged absence beyond a certain period from a country is also another important cause

(5) **Marriage** Generally a woman loses her citizenship when she marries a foreign national, though some states allow retention of citizenship in such cases

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1 *Introduction to Political Science* (1954) p 196

condition is most deplorable There are certain hindrances in the way of good citizenship These are the following

(1) Ignorance and illiteracy form the greatest obstacle to the realisation of good citizenship Much can be achieved, if this is eliminated

(2) Another great impediment is the selfishness of the people. If the people are interested in themselves only as individuals without the least consideration for others, good citizenship can never have scope for development

(3) Want of public spirit and aversion to do any public work, in other words, the lack of requisite character for good citizenship can become another hindrance.

(4) Excessive importance given to party considerations can also impede the growth of good citizenship

(5) Laziness and the indifference to one's own interests and to those of society in general also form another cause of poor citizenship

(6) The large size of a country and a large population can be regarded as an obstacle, yet it is possible to neutralise the defects of size in various ways

Education and Administrative Measures Certain steps can be taken to eliminate the hindrances to good citizenship

(1) The most important step is to spread education This will solve many of the difficulties in the way of good citizenship According to Laski, "the citizen has the right to such education as will fit him for the task of citizenship He must be provided with the instruments which make possible the understanding of life He must be able to give articulate expression to the wants *he has, the meaning of the experience he has encountered*"[1]

(2) Administrative remedies like the introduction of the referendum, initiative and recall can rouse public consciousness

(3) Government should take steps to curb bribery and corruption and other anti-social activities

(4) It is not enough, if the government takes negative measures, it should also do something positive by way of careful planning

F The State and the Citizen in India

Doctrine of Disobedience While dealing with citizenship in India, it must be noted that till 1947, the situation was

1 A *Grammar of Politics* (1957) p 114

different from what it has been since then Indians, before 1947, were subjects, under Britain, but in Free India they are citizens As citizens, Indians have to shoulder great responsibility Before 1947, Indians were struggling against the British Government for freedom and independence, and in the Gandhi Era (1920–47) it was regarded as a patriotic duty to participate in *hartals*, fasts, civil disobedience and non-cooperation Unfortunately, people have not realised the change in the situation, and have not been showing the sense of discipline as expected of good citizens

In recent years, hundreds of cases of rioting and violent agitation bore witness to the want of civic sense and patriotism among Indian citizens Very violent disturbances in connection with anti-Hindi agitation, inter-state border disputes, anti-cow-slaughter campaign, Telengana agitation, agitation for Chandigarh and other movements led to destruction of private and public property worth crores of rupees Many persons have undertaken to resist law with the least provocation

Never are Indians in need of lessons in good citizenship as citizens (not subjects) of an independent state as they are today Few realise the value of obedience to principles and to the duly constituted authority in a democratic set up Here the observations of the late Sardar K M Panikkar may be noted "It is necessary to emphasise this obvious point, for one of the major problems in India is the survival of the doctrine of disobedience which we had, in the unfree society of the past adopted with every justification as a weapon of revolt It is not an uncommon feature in India for individuals to go on *fast unto death* for political purposes, for students to go on strike, for groups to reject the decisions which the government takes after due democratic processes "[1]

MAIN POINTS

1 **Meaning of Citizenship** In the narrow sense it means residence in a city In the broad sense it is applicable to all members of state Citizens to be distinguished from aliens Aliens get protection of law but have no political rights Distinction between natural and naturalised citizens

2 **How to Acquire Citizenship** (1) Birth (2) Marriage (3) Naturalisation by domicile choice marriage government appointment and application (4) Exceptional conditions when territory is conquered or ceded

3 **How Citizenship is Lost** By resignation foreign service long absence and acceptance of foreign titles

1 *The State and the Citizen* (1960) p 2

4 **Rights and Duties** (1) Rights to get protection to reside permanen[tly] to vote to hold public office and to petition (2) Duties obeying laws show[ing] loyalty to state joining army helping police and government officials giv[ing] vote paying taxes etc

5 **Hindrances to Good Citizenship** (1) Ignorance and illiteracy (2) Selfishness (3) Want of public spirit (4) Narrow party spirit (5) Laziness and indifference (6) Large size of state

Obstacles to be eliminated by education and administrative measures

6 **Conditions in India** Indians citizens and not subjects since 1947 Doctrine of disobedience and agitational approach Destruction of public property

CHAPTER 19

STATE AUTHORITY, AND OBLIGATIONS AND RIGHTS OF THE INDIVIDUAL

We shall study in this chapter the nature, structure and bases of authority in the modern state, and the obligations and rights of the individual

I Authority in the Modern State

We studied in Chapter 13 the meaning and features of sovereignty

The question of sovereignty is closely linked with the relationship between the individual and the state It is said that every individual is subject to the sovereignty of the state, which is exercised by its agent the government

Distinction between Sovereignty and Power

It is necessary to understand the meaning of terms like sovereignty and power

Sovereignty means supreme power, and power is the ability, which an individual or a group commands to make decisions, which affect the behaviour of men and women, who are the members of the state Power is ability to command and rule Peter Odegard says "In its most general sense, power in human affairs involves the control of human behaviour for particular ends through the express or implied threat of punishment for those who refuse or fail to comply "[1] In India, Prime Minister Smt. Indira Gandhi and other Ministers of her Cabinet have power, that is, they command the ability of making momentous decisions, which have an influence over the behaviour of people throughout the length and breadth of India Sovereignty in the "Sovereign Democratic Republic" of India lies in the people Sovereignty or supreme power may remain unexercised, if there is no government

1 *Political Power and Social Change* (1969) p 76

When government is formed, those in the government actual exercise power

Writers like Alfred De Grazia draw a line of distinction between sovereignty and power The former is regarded as a claim to power and the latter as the ability to make decisions "Sovereignty is the claim to the power to make final decisions affecting a state when that claim is authorised by the existing legitimate order Sovereignty is a claim to power, not to the actual exercise of power"[1]

Power and Authority Every now and then, we speak of exercise of authority What does authority mean? Authority means legitimate power, or power which has been approved by the people, or power in accordance with the constitution or the law of the state A government officer is competent to exercise authority or his power is legitimate, but his authority is clearly defined, and if he goes against the rules, which have conferred power on him, his authority ceases to be legitimate Eric Rowe says "Power like authority is a means of favourably affecting the behaviour of another, but by might not right The possessors of power use force to impose their will Authority and power are normally found together Even widely approved rulers cannot rule by authority alone They must from time to time coerce"[2]

Use of Force Every government has to make use of physical coercion, but this has to be in a legitimate manner This is known as force When physical coercion is employed illegitimately or contrary to laws and rules, it is called violence The policeman is compelled by circumstances to make use of physical coercion in accordance with clearly laid down rules, as coercion has to be legitimate

How Authority Becomes Legitimate The exercise of authority becomes legitimate, in the following cases

(1) when it is exercised according to constitutional and legal principles

(2) when it is exercised according to traditions and customs as accepted by the people, and

(3) when it is exercised by a charismatic leader of extraordinary power and ability, in whom the vast masses of people have full faith, and who is able to cast a spell on them

In most of the modern states, authority is exercised according to constitutional and legal principles The authority of a king is

1 Alfred De Grazia *Political Organisation* (1962) p 14
2 Modern Politics *An Introduction to Behaviour and Institutions* (1969) p 24

respected, as people are in a habit to obey him according to traditions and customs Similarly, people do not hesitate to respect the authority of charismatic leaders like Mustapha Kemal Pasha in Turkey In India, Pandit Jawaharlal Nehru was a charismatic leader, in the USA Presidents like Franklin D Roosevelt and John F Kennedy, and in Indonesia for about 22 years President Ahmed Sukarno In India, Mahatma Gandhi was a great charismatic leader, but he was not in government to exercise power People in India were loyal to Prime Minister Jawaharlal Nehru because (1) his government exercised authority constitutionally and legally, (2) people had become accustomed to be loyal to him, and (3) he commanded loyalty by his charisma

Structure of Authority in Modern States In most of the modern states, the structure of authority is according to constitutional principles According to the Constitution of India, which came into force on January 26, 1950, the President is at the apex, and the Village Panchayat at the bottom of the Sovereign Democratic Republic of India At the Centre, the President is the nominal executive, and the Union Council of Ministers with the Prime Minister as head is the real executive, the Union Legislature consists of two Houses the Council of States and the House of the People In the States, the Governor is the nominal executive, and the State Council of Ministers with the Chief Minister as head is the real executive The single integrated system of judiciary has the Supreme Court at the top, below it are the High Courts in the States, and below the High Court in a State are the District Courts, the Taluka Courts and the Nyaya Panchayats

The structure of authority in Britain, the U S A, France and other states is according to the respective constitution Peter Odegard says "Power structures or systems are usually hierarchical in form with those at the top normally having more power than those at lower levels since decisions made and enforced at the top of the pyramid have more widespread effect than those made farther down Hence the person's position in the hierarchy is a crude measure of his power and prestige within the system"[1]

Bases of State Authority An important question a student of political science has to answer is what is the basis of state authority? There was a time, when the only sanction behind authority was sheer physical force Religion was another basis

1 *Political Power and Social Change* (1969) pp 79–80

Religion taught people to obey the authority of the king Religion justified the king's authority by making use of the theory of divine right of kings In modern times, the contractualists argued that a social contract provided a basis for state authority (The theory of social contract has been rejected as false and absurd)

In the nineteenth century, among the most important forces which emerged in Europe, one was democracy Political thinkers spoke of the principle of consent as necessary for the use of state authority In modern democratic states, authority is exercised with the consent and approval of the people

Minimum Use of Coercive Power The state, which is based on the consent of the people has no need to make much use of its coercive power, as people extend maximum cooperation to it, and are spontaneously loyal and obedient to it The success of a government depends upon the cooperation, which it is able to evoke When people feel that the aims and objectives of the state are identical with their own, they whole heartedly render obedience to the state H J Laski observes "I think, therefore, that we have to say that in the last analysis, the state is built upon the ability of its government to operate successfully its coercive power It is true (and it is of course, important) that when the members of a state are fundamentally at one about the purposes in its policy, the coercive aspect recedes into the background "[1]

II Obligations of the Individual

A Meaning of Obligations

Do s and Don't's As a member of society and state, man has to behave in a way, which is good for all and refrain from acting in any manner, which is harmful to society Society calls upon the individual to follow certain *do s* and *don't s* These are obligations, or duties For instance payment of tax is a duty, and so too refraining from committing theft Duties of the individual assume importance only in a social context

Duties and rights have significance to the individual *only as a member of society* A person expects others to honour his right to life and right to private property, this expectation becomes the duty of others Similarly, people have such expectations of the individual, and hence these become the individual's duties

Duties and Rights Correlated It has been aptly said that duties and rights are the two sides of the same medal or coin.

1 *The State in Theory and Practice* (1967) p 26

They are the same conditions viewed from different angles The condition of duty of one individual becomes the condition of right of others in society Today in a democratic state, a right is not regarded as an act of grace, mercy or charity from government, but as a legitimate wish of the individual for his own good and for the good of others Rights are so important now that citizens in democratic states take them for granted and regard them as their claims But it must be noted here that on principle *a right cannot be a claim*, but only a disinterested wish recognised by the state

It is the function of the state to uphold the rights of the individual, enforce laws and see that the individual does his duty In a democratic state, equal emphasis is placed on rights and duties It is meaningless to speak of rights only, without laying emphasis on obligations The proper functioning of the state depends upon a well-organized system of duties and rights The nature of state can be regarded as good or bad according to the way in which it protects the rights of the people and at the same time makes them discharge their duties properly In highly deve loped democratic countries like England and the USA, the position of the individual is enviable, as he has many right , and he is also prepared to do his duties as a matter of habit The high civic sense and public consciousness of people in these countries are praise-worthy

Obligations of State The state was formed to meet the needs of the individual and society, and hence it has to discharge obligations expected of it The modern times laying great emphasis on the obligations of the individual, also underline the importance of the obligations and functions of the state The state has to go far beyond the limit of protecting the life and property of the individual from internal attack or external aggression It should also promote the health of the individual, spread education and discharge other functions political, social, and economic to develop the personality of the individual The concept of the police state has been rejected long back, and the concept of the welfare state has been accepted If the state does not discharge its obligations, it cannot expect loyalty and obedience from the people

B Kinds of Obligations

Obligations can be classified into Moral and Legal, and Positive and Negative

1 Moral and Legal Obligations

Moral Obligations Not Prescribed by State The individual has to accept ethical and moral principles of society In the course of ages, society silently evolved ethical and moral traditions and the conduct of the individual should be in conformity with them Moral principles of society vary from country to country According to the moral principles of society in which he lives, the individual has to discharge certain obligations or duties vi being good to neighbours, showing hospitality to guests, looking after parents in their old age and decrepitude, providing relief to the poor and the weak and so on It has to be emphasised that these are not obligations legally binding on the individual and the community, and therefore, if the individual does not behave according to them, he cannot be punished However, the opinion of the public can assert itself against a morally erring individual who will incur its displeasure or even boycott but beyond this nothing can be done Moral obligations are not prescribed by the state and if they are not discharged, the state cannot penalise any one

No Shirking of Legal Obligations Legal obligations are on a different level altogether Law deals with them, and when the individual does not discharge them, the state can punish him These obligations are legally binding on the individual, and he cannot shirk them The individual is legally called upon to pay taxes, and he cannot escape from this duty While the state will not punish the individual, if he is not kind or good to his neighbour and not respectful towards his parents and elders, it will take legal steps against him, if taxes fall in arrears It is the duty of the individual to obey the law, and if he violates it, he shall be punished

2 Positive and Negative Obligations

Obeying Do's The laws of a state lay down certain do's These are the positive obligations of the individual Paying taxes in full and at the right time casting one's vote at the time of elections and joining the army in times of national emergency can be regarded as legal obligations in the positive sense One can speak of the positive obligations in the moral sense also Serving one's sick father is a moral obligation in the positive sense

Obeying Don't's The individual is expected to follow certain don't's, legally speaking These are his negative obligations The

individual is not supposed to do what is prohibited by law When the individual does not drink liquor or behave in a disorderly way, does not commit theft or murder, and does not come in the way of others, while doing their duties, he discharges his obligations in a negative manner

C Important Obligations of the Individual

The individual, whether he is a citizen or not, has to obey the laws of the state, and refrain from doing what is prohibited by law Even foreigners, who are not citizens, have to obey laws positively and negatively

The citizens, however, are called upon to discharge certain obligations which are regarded as very important for the good of all *in the state These are (1) obeying laws, (2) resisting bad* laws, (3) showing full loyalty to the state, (4) paying taxes, (5) casting vote and holding public office, and (6) co-operating with government in upholding law and order

1 *Obeying Laws* The foremost obligation of the individual is to obey the laws of the state If this obligation is not discharged properly, there will be disorder and confusion The law-abiding citizen is an asset to the state, and the law-breaker a liability Every state has a network of police organisation, and also a well-organised judiciary to deal with people, who violate law Generally, the laws in a state are obeyed by an overwhelming majority, when the people have a share in framing them, and when laws actually meet the needs of the people It is difficult for a government to secure obedience to laws, which are against the interests of the community

Every state has a constitution according to whch thie govern ment is run The successful working of a constitution will depend upon the good will and co-operation of the people The constitu tion will become a dead letter in a state, if the people do not want it, and are bent on wrecking it

2 *Resisting Law* It must be remembered that law is a means to an end, and never an end in itself If a particular law does not serve a good end, it has to be repealed Sometimes, a government is able to pass harmful laws by virtue of the support it gets from what is called the steam-roller majority in the legis lature Such laws have to be resisted, and the citizen will be failing in his duty if he does not resist them Thinkers like Green and Laski give the citizen the right to resist Here again, the citizen

has to be cautious He has to try all peaceful, constitutional and persuasive methods to secure the repeal of the bad law A good citizen fully obeys good laws but resists bad laws, when he feels that all the peaceful weapons in his armoury have no effect In the British regime in India, Mahatma Gandhi resisted certain laws, after he was morally convinced that they were injurious to the interests of the country Resistance to law must take place in exceptional circumstances, and it should not be a daily affair Only in the last resort the individual should undertake the task of resisting law As Burke puts it, it should be a medicine, and not the daily food of the people In India today the tendency to offer resistance to law or break law on flimsy grounds is on the increase. Often we see people invoking Gandhiji s authority, while resisting law completely forgetting that they are not morally competent to take Gandhiji's steps

In a dictatorship, the individual can never dream of offering resistance to government, as the heavy hand of the dictator will crush all opposition

3 *Showing Loyalty to the State* The citizen must be impl... loyal to the state, and show complete allegiance to it W... internal disturbances break out or foreigners commit aggress... the citizen should support the government with his heart ... soul In times of emergency, a government may introduce co... pulsory military training, and call upon the citizens to join t... army The citizens then should respond to the emergency call ... the government, and make the necessary sacrifice This is im... perative, because it is likely that the government may be over... thrown by foreigners, when there is no co-operation from the people

4 *Paying Taxes* The state requires money for running its governmental machinery, for maintaining army, navy, air force police force and bureaucracy, and for promoting the welfare of the people This money has to come from the pockets of the people It is the duty of every individual to pay taxes fully and at the right time Tax-evasion, besides being an offence is against prin ciples of good citizenship If citizens do not pay taxes, govern ment cannot discharge its duties and responsibilities

5 *Casting Vote and Holding Public Office* In a democracy, xercising franchise has become a very important duty Exercising anchise is not only a right and privilege of the citizen but his

sacred duty The citizen must consider the merits of the different candidates, and cast his vote intelligently The voter is the maker of government in a democracy, and hence the importance of franchise can hardly be overestimated Holding public office is another important duty Just as the citizen has right and duty to vote, he has also the right and duty to occupy public office

6 *Co-operating with Government* In advanced countries, the people are public-spirited and they fully co-operate with the government While in highly civilised countries governments get the requisite public support, in backward countries, it is not so because the ignorant, illiterate or selfish people do not realise the importance of their obligation to the state Public co-operation is required to maintain law and order and to promote people's welfare No scheme of government can be successful, unless the citizens realise that they are under an obligation to help the government in checking lawlessness, in apprehending criminals, in fighting corruption, in raising an army, and in running the various public utility services Citizens should remember that in assisting the government they are helping themselves and society However, government cannot expect support and co-operation from the public, if it acts unwisely and in an arbitrary manner The conscientious citizen will not fail to criticise the erring government, for he is aware that levelling constructive criticism is as important as extending co-operation to the government

D Why the Individual Should Obey the State

A very pertinent and significant question that is being asked is why should the individual obey the state, be loyal to it, and act in accordance with the laws and orders made by it ? This question rose in modern times, when great political consciousness manifested itself in the minds of the people, who became increasingly aware of their rights

The following reasons can be given to explain why the individual should obey the same

1 **Need of State** Most of the members of the state are aware of the fact that they need the state and they cannot live as civilized human beings without it This makes it incumbent on them to obey the state The state renders various kinds of services, not only it protects its members from violence to their lives and property, but takes steps to promote their welfare Particularly, the modern state goes far beyond its duty of merely protecting

the individual the desire to give habitual obedience to the state Leslie Lipson observes " Certain psychologists explain a human being as the product of his environment This consists in the main of patterns of behaviour designed for him, rather than by him His parents, teachers, friends, customers, clients and employers help to construct with him a strong pressure to conform To that pressure he will habitually respond both because he desires their approval and because swimming with the tide is always easier as well as more agreeable, than battling against the current "[1]

4 **Fear of Punishment** While good citizens consider it a privilege and duty to be loyal to the state (as it would mean being loyal to the principles of civilized life), there are others, who consider obedience to the state as an unpleasant and painful duty Then, why do they obey the laws? The simple answer to this question is that they do not want to be punished The fear of punishment (fine or imprisonment or both) goads them to the path of obedience and loyalty A person earns a bad reputation, when his neighbours in particular and other people in general, know that he has been held in police custody or sentenced to imprisonment or fined or subjected to any other penalty The fear of tarnishing one's name keeps one along the path of rectitude

5 **Disobedience Not Possible** In every state, there are persons who would like to be laws unto themselves They are selfish, and do not care much for the larger interests of the community They would choose to disobey the state, and challenge its power, but they know, and if they do not know, they will realize that they cannot disobey the state or overthrow its power The state has all the armed forces at its disposal to meet any challenge from any individual or group within the state, and to protect its legitimate power No individual in the state is allowed to maintain a private army or police force in order to ensure that nobody challenges the authority of the state

6 **Religion** Religion was an important factor in ancient and medieval states, which made the individual bow down to the will of the ruler and obey his laws In most of the ancient states, the hold of religion on the people was great, and when religious leaders asked the people to obey the government, they followed the advice and obeyed the laws In some ancient states, the

1 *The Great Issues of Politics* (1967) p 179

life and property, and enables the individual to lead a better and happier life When the state confers numerous advantages on the individual, and makes itself indispensable to him, any individual with commonsense will realise that his foremost duty as a member of the state is to obey its laws, and discharge all obligations expected of him If the state is to function smoothly and serve the interests of the people, they should be obedient to it The self-interest of the individual itself, apart from anything else, makes the individual loyal to the state and obedient to the laws Man is a social animal He lives in society and cooperates with others to make his life comfortable and meaningful Man is also a political animal, as Aristotle said Man as a social and political animal obeys the state, as he needs it Need makes him develop obedience as a routine duty R M Mac Iver observes "Men obey because they are social beings—or if you prefer it, because they are socialized beings, trained and indoctrinated in the ways of their society All the motivations that are evoked and active in their social circle conspire to make them, on the whole law-abiding"[1]

2 **Fear of Disorder and Anarchy** As a rule, human beings desire to have peace and order The only association, which is competent to assure peace and order to them is the state Therefore, normally members of the state not only obey the laws of the state but look down on those, who violate them and disturb peace and order in society Good citizens consider it their duty to co-operate with the state, and help it in the apprehension and punishment of lawless elements

3 **Matter of Habit and Tradition** In a family, in which much importance is given to disciplined conduct, it becomes a habit with all members to be good, courteous and helpful, so also in a well-ordered state, it is a habit among its citizens to be peace-loving and law-abiding In an advanced state, citizens establish good traditions and obedience to the state is a matter of habit Dorothy Pickles points out 'The value of custom and tradition was emphasized by nineteenth century British lawyers like Austin and Sir Henry Maine who saw obedience to the state as something customary and traditional defined and crystallized—almost hallowed—by law'[2] Obedience to the laws of the state is ingrained in its members, and disobedience is something which is contrary to custom and tradition The influence of environment creates in

1 *The Web of Government* (1961) p 77
2 *Introduction to Politics* (1964) p 61

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1 *The Great Issues of Politics* (1967) p 179

kings themselves were priests In ancient Mesopotamia, people obeyed the written law code of king Hammurabi, as they were made to believe that the sun God Shamash himself had given the code to the king A Protestant king in modern Europe could receive greater loyalty from the Protestant subjects than a Roman Catholic king could have done in the same state Even in modern states like Israel and Pakistan, religion is a vital factor weighing in the minds of the people in rendering obedience to the state

7 Legitimacy of Source of Law and Rationality of Content Laws of a state attract obedience and loyalty, if the source fr which they come is legitimate, and the laws are reasonable a for the good of the people This means, the government whic makes law should be acceptable to the people, and the laws shoulc be rational in content [1] People will not obey bad laws, even if they are passed by a democratic government Bad laws will be resisted by the people, or government itself will be incapable of enforcing them In India, the Gold Control order of 1968 could not be enforced properly, as people were against it

Views of Different Thinkers on Obedience

Greek Thinkers In ancient Greek city-states where systematic political thought rose for the first time in the world, there was no difference between state and society, and state and government All citizens were supposed to enter into a permanent partnership with the state in order to realize a life of virtue, goodness and justice There was no difference between the interests of the state and the interests of the citizen The glorification of the state was regarded as the glorification of the individual

The Greeks regarded themselves as slaves of law, and they did not and could not claim any rights against the state as such as the individual can do in a modern democratic state The question of disobedience to the state could never be imagined by the individual This attitude to law is to be found in the thought of great Greek philosophers like Socrates, Plato and Aristotle When Socrates was condemned to death, he thought it was his honourable duty to bear the punishment as a slave of law Even though escaping from the clutches of law was possible Socrates thought that it was good to die as an obedient and law-abiding citizen

Advocates of Divine Right Theory King James I of England called upon the people to obey his government without questioning

1 See R M Mac Iver *The Web of Government* (1960) p 75

it, even if it went wrong He said that the king was God's agent on earth, and people should allow the king to rule by the principle of divine right Writers like Sir Robert Filmer, who basked in the sunshine of the Stuart king strongly supported the Divine Right Theory of kings, and asked the people to submit to monarchy

Consent and Contractualists We may make a brief reference to the contractualists in connection with the study of obedience to the state Dorothy Pickles observes "From the 16th to the 18th century, however, European political thought came to be dominated by another set of theories, whose importance for us is precisely that they emphasised the need for obedience to be based on consent At this stage, consent was thought of as the result of a bargain or contract between ruler and ruled "[1]

Hobbes said that the state rose as a result of a contract. People wanted to escape from disorder and anarchy, and they made a social contract according to which they committed themselves to obey the laws of an absolute king, who was the product of the social contract but not a party to it The king can demand obedience from the people, who are given peace and order by him

Locke another contractualist spoke of two contracts social and governmental By the former civil society rose, and by the latter government was established People agreed to obey the laws of the government according to contract Unlike Hobbes, who espoused the cause of absolute monarchy, Locke advocated the principle of limited or constitutional monarchy People are bound to obey the laws only as long as the ruler conducted himself according to the terms of the contract He would forfeit the loyalty and obedience of the people as soon as he behaved arbitrarily contrary to the contract

Rousseau also spoke of the formation of the state as a result of a social contract, by which people agreed to be law–abiding He vested sovereignty in the General Will Rousseau gave the law-abiding people the right to revolution, if the ruler misused his power

(For details of the Social Contract Theory, see Chapter 6)

T H Green T H Green said that the state should serve the interests of the individual and try to win the allegiance and loyalty of the individual He emphasised the point that will, and not force, is the basis of the state

1 *Introduction to Politics* (1964) p 62

Idealists Thinkers like Kant, who put forth the Idealist Theory of the state said that the individual's duty is to obey the the state, whether he agreed with its policies and acts or not. This view is not accepted by those, who stand for a democratic form of government

Utilitarians Utilitarians like Jeremy Bentham and J S Mill said that it was the duty of the state to give happiness or satisfaction to the individual to be worthy of the loyalty of the individual The state can enjoy the support, loyalty and obedience of the individual, because among associations, the state can claim the first rank in providing the highest amount of happiness to the people The individual is inclined to obey the laws of the state, because he knows that it is in his own interests to be loyal to the greatest association (state) which promotes his happiness

Conclusion Generally, in every state, most of the people obey laws R M Mac Iver makes a significant observation "The vast majority of men have the habit of law-abidingness They don't obey all laws equally They try to ignore some and evade others But in the main, unless they are unmoored by catastrophic events or by social convulsions, they are law-abiding"[1] At various stages of history, political thinkers explained why the individual should obey the state or why he actually follows the laws of the state Generally, each thinker lays stress on a particular reason For instance, contractualists speak of consent based on contract, and utilitarians underline the importance of happiness The various thinkers do not explain all the factors which are involved in the obedience to law A careful examination of the relationship between the individual and the state shows that loyalty and obedience of the individual to the state arises as a result of a multiplicity of causes

People spontaneously display their loyalty to the state and willingly obey the laws, if the following conditions are present in a state

(1) The government is strong and stable, and it can face any challenge to its authority in the internal and external fields

(2) The government has clearly committed itself to give full protection to the people and to r[illegible] their general happiness and welfare

1 *The Web of Gove*[illegible]

(3) People have full faith in the government's policies and in its ability to realise the targets fixed by it

(4) The government is responsive to public opinion, and is responsible to the elected representatives of the people

(5) The government passes laws, which clearly meet the needs of the changing society People would feel that they need such laws and so obeying them is in their own interests

(6) Minorities in the state should feel a sense of security, as the constitution and the laws do not show any discrimination against them

III The Rights of the Individual

A Meaning and Nature of Rights

Right, a Condition or Disinterested Wish In the state, certain conditions, which are conducive to the well-being of the individual are created For instance, the state creates a condition, which ensures the security of the individual and his property, such a condition can be called a right In no way can a right be regarded as a selfish claim, because what is the selfish interest of one may become a hurdle to others *A right can be considered as a* disinterested wish, which every one can entertain for one's own good, and which can be applied to all For example, to have the right to marry and raise a family is such a wish, which all can entertain Such a disinterested wish of the individual acts in the best interests of everyone In society, the desire to have a family is universally recognised as quite legitimate and essential

Right Only in Social Context The individual has rights not as an isolated being, but as a member of society and state The individual does not speak about his rights, when he is alone in an isolated place He speaks about his rights in his relations with other members of society It is in a state that rights are recognised Rights have no meaning, unless they are recognised and upheld by the state

Intimately connected with rights are obligations or duties The right of one individual becomes the duty of another The right to life and property becomes meaningless, unless others recognise it and are under an obligation to uphold it There can be no rights in a society, which does not lay down obligations Rights have assumed great importance in modern times, and as Laski points out, the state is known by the rights it maintains Rights can prevail only in a state, which values the concepts of liberty and equality

B Theories of Rights

Several theories have been put forward to explain rights The most outstanding ones are (1) The Theory of Natural Rights, (2) The Legal Theory of Rights, (3) The Social Welfare Theory of Rights, (4) The Idealist Theory of Rights, and (5) The Historical Theory of Rights

1 The Theory of Natural Rights

Rights Created by Nature According to the Theory of Natural Rights, rights come from nature, and are not created by any human agency Rights are built on the law of nature, which is universally applicable The theory was in the limelight in the seventeenth and eighteenth centuries, its basis was essentially non-juristic Rights are natural Every human being enjoys them and finds them indispensable for his very existence "They inhere in him They are as much a part of man's nature as, say, the colour of his skin They do not require an elaborate explanation or justification They are self-evident truths One simply asserts them dogmatically"[1]

Rights Pre-Social and Pre-Political The theory was advocated by the authors of the Social Contract Theory like Hobbes, Locke and Rousseau They say that man had natural rights even before society and state were born According to Locke, nature has made all men free and rational, and has given him rights like right to life and liberty Herbert Spencer, who also thinks along the same lines believes that the process of evolution shows that all men have the fundamental right to equal freedom, which enables them to do what they will Such a right comes from nature, and not from any human agency like state

Opinion of Greeks and Romans The theory can be traced back to ancient Greece and Rome The stoic philosophers of Greece spoke about natural rights and their writings influenced Rome The Romans believed that all human beings were subject to certain common principles of life as created by nature, and hence, these principles, which Roman thinkers called *jus naturale* (natural law) were applicable to people living within the Roman empire Thus natural law bound people of all races together in Rome Cicero in Rome was a staunch exponent of the principle of natural law So much was the significance given to natural law

1 E Asirvatham *Political Theory* (1957) p 117

that it became the basis on which Roman law-makers worked in making law

Locke, Hobbes, Rousseau and Paine The concept of natural law suffered a set-back in the middle ages, as the Church thinkers spoke in terms of the law of God and of the Church The English political thinker John Locke in the seventeenth century took up the concept again and made it important While dealing with his social contract, Locke spoke of natural rights The declarations made by the American and the French revolutionaries echoed the ideas of Locke The Americans proclaimed that "all men are by nature equally free and independent and have certain inherent rights " Similarly, the French National Assembly breathed the same spirit pertaining to natural rights as given by the great American leaders like Jefferson The French Assembly spoke in terms of "the natural, inalienable and sacred rights of man" Like Locke, Hobbes and Rousseau also spoke of natural rights Locke says that though man surrendered some of his natural rights, he continued to enjoy the remaining rights

According to Hobbes, man lost his natural rights when a social contract was made

In Rousseau's opinion man surrendered his individual will to the General Will 'Man is born free, but everywhere he is in chains," said Rousseau In England, Thomas Paine spoke of the principle of natural rights without connecting it with the Social Contract Theory According to Paine, the rights to "liberty, property, security, and resistance to oppression" are based on natural rights

Evaluation The Theory of Natural Rights has certain merits, provided we understand it in the right spirit without laying too much stress on the letter of the theory It is proper to interpret that natural rights stand for those rights which work for man's good and create opportunities for his development As far as the theory says that natural rights are necessary for man's ethical and moral development it is very valuable

The theory suffers from the following defects

1 Vague The theory is vague and it is difficult to give the precise meaning of the term 'natural Different writers make use of it in various senses and there is much confusion It is not possible to make a list of natural rights on which political thinkers

fully agree For instance, some would advocate maintenance of slaves as a natural right, while others would condemn it strongly, as it goes against the natural right of freedom to mankind

2 **Not Reasonable** The theory is not reasonable It is too much to believe that man had rights from nature, even before he became a member of society or state Rights can exist only in society, and it is absurd to talk about the rights of an individual, who is not the member of a civil society The theory is also wrong in not correlating rights and obligations Rights have no meaning without obligations Every right implies an obligation.

3 **Contractualists Wrong** Contractualists like Hobbes, Locke and Rousseau, who support the theory are incorrect It is wrong to suggest that rights existed in the pre-historic times, and that these were lost, while the state was formed In fact, rights have a real basis only in the state and not outside it.

4 **Ignores State** A very serious flaw in the theory is that it ignores the state as a source of rights Though not all, some rights are created by the state

Utilitarians like Jeremy Bentham in the nineteenth century criticised the Theory of Natural Rights in the most vehement terms

2 The Legal Theory of Rights

State Creates Rights According to the Legal Theory of Rights, the state is the source of rights Rights have not been gifted by nature, and are not in man's nature itself They are created by the state, whose membership brings rights to man So, rights can be regarded as artificial creations Rights emerge from the state, and are maintained by the state The state makes laws, and laws create rights The individual owes every right to the state, and he has no right against the state Thus the legal theory is against the theory of natural rights The theory lays down

(1) Rights spring from the state,

(2) The tate defines what rights are and what are not rights,

(3) The state provides the list of basic or fundamental rights,

(4) The state makes laws to uphold rights, and al o sets up a machinery to enforce law and uphold rights, and

(5) The state can change rights and their content as it can change laws

Merit The theory is right, when it says that the individual enjoys rights, because they are recognised and upheld by the state

Rights have no meaning unless they are backed by the state Without the support of law, the rights of the individual remain only as potential conditions As the theory says, one has to admit that the state is the immediate source of rights

Defects Pluralists strongly criticise the theory They give great importance to various associations, and say that the membership of the state alone does not confer rights on the individual For instance, Laski points out that rights are not conditions entirely depending on the recognition of the state, they can exist even independently According to pluralists, the individual owes much to the various social groups for enjoying different rights, and it is incorrect to regard the state as the source of all rights Here it should be noted that pluralists like Laski go too far, they even desire that sovereignty be watered down and the various associations in society be given more or less the rank, which the state now enjoys

The theory can be criticised on the following grounds

(1) The legal theory does not deal with rights philosophically It does not explain whether the laws of the state are right in recognising certain rights and omitting others from recognition The outlook of the theory is, therefore, very narrow

(2) The theory makes the state absolute The proposition that the individual gets rights only because the state has created them is dangerous to the liberty of the individual The individual is thrown entirely to the mercy of the state, and can have no right of resisting law Though the stand of pluralists is incorrect, they are right in criticising the state as the only source of rights

3 The Social Welfare Theory of Rights

Conditions of Social Happiness According to the Social Welfare Theory rights are created by society, and are aimed at realising social welfare Conditions which make the individual and society happy are rights, and these should have precedence over customs usages, traditions and natural rights This theory looks at rights solely through the angle of social welfare Roscoe Pound and Chafee, the protagonists of the theory point out that natural rights laws and customs should be subordinate to the welfare of society The state upholds rights as conditions of social welfare

The Greatest Happiness of the Greatest Number In the nineteenth century, utilitarian thinkers like Jeremy Bentham and John Stuart Mill spoke in terms of social welfare, and popularised the slogan "the greatest happiness of the greatest number"[1] Bentham and Mill believed that rights were based on utility Conditions which lessen pain and increase happiness, become the rights of the individual These rights rise only in a social context The exponents of the principle of the greatest happiness made utility the yardstick to measure state action The state creates rights, and laws are passed to uphold rights, and it is wrong to think in terms of natural rights

Merit of Upholding Social Welfare The theory has the great merit of upholding the principle of social welfare In an age in which the concept of the welfare state is gaining ground and the principle of the police state has been discredited, the importance of the Social Welfare Theory of Rights can hardly be overestimated Utilitarians, who supported the theory made a practical approach to rights, and advocated legislation in different fields to uphold rights In Britain, people got several rights through the support of utilitarians It was owing to this theory that several political, social and economic reforms were introduced in England and other countries Their pragmatic attitude did much for the common man, while idealists and others could do very little

Defects The theory, however, has the following main defects

(1) It is vague, and it cannot be clearly stated what precisely constitutes happiness The principle of the greatest happiness of the greatest number is vague

(2) In the name of social welfare, governments are arming themselves with excessive powers, and this has led to the erosion of the rights of the individual Social welfare can be made a convenient excuse for trampling upon the rights of the individual In India in the name of social welfare the legislatures, central and state have passed many laws eroding the Fundamental Rights of the individual

4 The Idealist Theory of Rights

Rights for Development of Personality The idealist or Personality Theory of Rights says that the human being needs

1 See the Chapter on *Utilitarianism*

congenial external conditions for the development of his personality These conditions are created by the state Krause, Henrici and Wilde say that without rights man cannot become his best self Green, the idealist thinker of England says that rights are powers "necessary to the fulfilment of man's vocation as a moral being" The theory links rights with moral development of man, and looks at rights essentially from the ethical point of view Without these conditions, it is not possible for the individual to live and realise his full stature These opportunities or rights are to be enjoyed by the individual and society Hence, they are to be understood in a social context Just as the individual wants to develop his personality, others in society also have a similar aim, and therefore, it is implied that rights arise in a society, and the rights of the individual should be in harmony with those of others Rights are to be linked with the individual good and the common good of all

Moderate idealists like Kant and Green speak not in terms of the growth of the individual's personality only, but in terms of the common good Conditions for the individual's ethical and moral development are created by the state Unfortunately, extreme idealists like Hegel subordinate the individual to the state, and expect the former to surrender himself completely to the latter

Evaluation The idealist theory views at rights through the moral or ethical angle, and as far as it aims at the highest growth of the individual in a social context, it has rendered great service

The theory has certain defects It seems, the theory is vague, and objective standards cannot be applied While one accepts the principle of the development of the individual's personality as a good ideal, going to the practical field, we find it rather ambiguous Just as the greatest happiness as expounded by utilitarians cannot be measured, the conditions supposed to be aiming at the moral perfection of the individual cannot be assessed Extreme idealists do great harm to the liberty of the individual by asking him to obey the state implicitly without giving him the right to criticise the state or to resist laws, which are bad and harmful to him

5 The Historical Theory of Rights

Rights Based on Customs According to the Historical Theory of Rights, rights are the result of historical evolution While in the modern state rights are recognised and e by law, in ancient times, rights were based on customs an In the course of ages, human beings in society evolve

usages, *traditions* and customs for the common good, and these in an unwritten form became the basis of law, which gave rights to the individual in actual written form To the primitive man, custom was unwritten law

Merits The theory is correct, when it says that several rights rose as a result of historical evolution When the state was evolved, human beings must have had certain customs and traditions hardened by time, and these provided a basis for the written laws of the state In England, for instance, as Edmund Burke points out, people fought for rights, which were customary A custom which people go on following generation after generation becomes a customary right, and this provides a basis for law The right of walking along a certain path, the right of sending one's cattle to graze on a certain field, and the right of drawing water from a tank get a firm basis through custom In many countries, legislation giving rights only upholds many traditions, which are products of history

Defects The theory is defective, as all laws are not products of history Only some rights are the result of historical evolution Certain rights are created by law, and they do not have history as the source of their origin In the caste system, it was not possible to have social justice and equality before the law While in India the caste system is a product of history, equality before the law as we have it now is based on the concrete written word of the Constitution All products of history or custom cannot be regarded as rights or continued as rights For instance, in most of the countries in ancient times, buying and selling slaves was a custom or "right" of the slave-dealer In Greece, philosophers like Aristotle upheld slavery, and the custom continued Citizens in Greece maintained slaves to have adequate leisure to discharge their duties But today, no state supports slavery as a right In the same way in Hindu society *sati*, child marriage and other evils had the sanction of long-standing customs, which where bad and unjust These pernicious customs had to be abolished, for they were against rights as we understand them now Therefore long-standing customs can come in the way of rights instead of becoming rights themselves

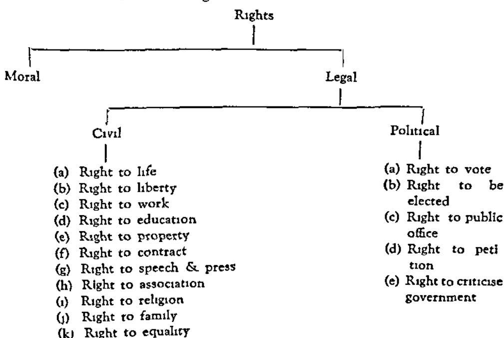
Conclusion By way of conclusion, it can be said that every theory gives some truth, and it is better not to depend on one theory only for the explanation of rights Some rights are the

products of history, some are results of legislation, all rights directly or indirectly help to develop the personality of the individual, certain rights are inherent in human nature, and lastly, as the utilitarians say, rights stand for promoting social welfare Therefore, the ideas given by the different theories of rights have to be brought together

The importance of rights today can hardly be overestimated They are the concern of all In this age of democracy and freedom, all speak in terms of rights, whether one is a political philosopher or a man in the street In dealing with rights, Laski combines the Theory of Social Welfare and the Idealistic Theory of Rights

C Kinds of Rights

Rights are classified into Moral and Legal, and Legal Rights are sub-divided into Civil and Political Let us make a brief study of the various kinds of rights



1 Moral and Legal Rights

(a) Moral Rights Rights, which are based on the ethical or moral sanction of society are called moral These rights have no legal backing and cannot be enforced by law courts The moral opinion of society recognises the rights of children to be protected, looked after and educated by parents, but in case the parents neglect their children, no legal action can be taken against the erring parents The moral conscience of the community expects a

young man to look after his parents in their old age, but the moral right of the parents cannot be legally enforced, even if they are discarded Government is concerned only with the violation of the laws of the land While it can act, when legal rights are attacked, it cannot act to uphold moral rights A woman may become helpless, when she is treated badly by her husband, for it is a case of the violation of a moral right and not a legal right.

(b) Legal Rights Unlike a moral right, a legal right is recognised by state through its law, and it can be enforced in a court of law For instance, in India since the passing of the Hindu Code Act (1954-56), a woman is legally entitled to have a share in her father s property If this right is violated, the aggrieved woman can go to a court of law for justice

Legal rights are of two categories (1) Civil, and (2) Political

Civil Rights Civil rights are those, which enable an individual to lead a normal social life For example, the right to life, the right to private property, the right to freedom of thought and expression the right to move about freely, the right to meet others and form associations, and the right to make contract are civil rights These rights are conditions or opportunities of civilised life, and without these, man cannot live like a civilised and cultured human being Civil rights are protected by the state

Political Rights Political rights are those, which enable an individual as a citizen to participate in the political affairs and governance of the country The citizen enjoys these rights in his public capacity For instance, in India, the right to vote, the right to stand for election, the right to occupy a public post under the government and the right to criticise the government are political rights No clear line of distinction can be drawn between certain civil rights and political rights The right to form a political association for expressing views and criticising government is a combination of civil and political rights Political rights are of paramount importance, as they provide a basis for the working of a democratic government Democracy is government by consent, public opinion or public criticism such a government is not possible, unless citizens are armed with political rights

2 Civil Rights

Important Civil Rights Certain civil rights are regarded as very important These are (a) right to life and security, *(b)* right to family, (c) right to property, (d) right to work, *(e)* right

to contract, (f) right to speech, (g) right to religion, (h) right to liberty and free movement, (i) right to equality, (j) right to education, and (k) right to association

(a) Right to Life The right to life is the basic civil right, and without this there will be safety neither to the individual nor to society This right enables every individual to get protection to life In very ancient times, even the most elementary right of the human being, that is, the right to live was not recognisd In early societies, the accent was on the family and tribe, and the right of the individual to life was not upheld Today, the right to life includes the right of self-defence It also implies the duty of recognising this right of other people In modern times, the scope of the right to live has been widened For instance, it is said that every individual has the right to be born without very great handicaps Every state has law, which protects the life of the individual Murder is punishable by death in most of the countries Power to punish lies in the hands of state, and not in hands of any individual or group of persons While killing is clearly forbidden by law, in exceptional cases, the individual can use violence to defend himself

Death Sentence In modern times, some thinkers condemn the imposition of capital sentence, they are of the opinion that even the state has no right to take away the life of a man, as human life is sacred The imposition of death sentence is criticised as it is based on the principle of *eye for eye* and *tooth for tooth* Moreover, the modern approach is more reformative than retributive It is argued that criminals are not born, but are products of society and murders are caused by provocation Murderers, though wicked are ignorant and foolish, and sympathy cannot be denied to them completely It is also said that capital sentence does not act as an adequate deterrent But the advocates of capital punishment point out that from the social point of view it is wrong to allow a murderer to continue to live in society, and empty sentimentalism will do more harm than good Society has not advanced far enough to abolish capital punishment

Suicide Right to life is against suicide As St Thomas Aquinas says suicide is an offence against oneself, one's community and God Generally speaking every society and every government condemns suicide A question which cannot be satisfactorily answered is whether a person can take away his own life or a doctor can take it away, when he suffers from unbearable pain and death

is the only relief that is possible As conditions are at present, at the most, a reluctant approval may be given to euthanasia Even then, there are legal difficulties in the way of such cases Just as murder can be condemned on legal and moral grounds, the same is done in the case of suicide also

(b) Right to Family The right to family is of great significance for the continuation of the human race In almost all ages the family as a social unit played an important part in the growth of the state and in the evolution of culture and civilisation Therefore in every state, the sanctity of family life has been recognised, and the institution of marriage has been regarded as sacred The individual has the right to marry and have a family The laws of the state protect social institutions like the family Several states have passed laws to regulate the relations among the various members of the family These laws deal with bigamy, polygamy, polyandry, marriage, divorce, property rights of family members and custody of children In the interests of society in general, it is said, that persons suffering from terrible and incurable diseases, mental and physical should not be allowed to marry and enjoy the right to family life to the fullest extent This matter, however, is controversial, as one cannot say precisely as to what is terrible and incurable

(c) Right to Private Property Nothing perhaps has played such a vital role in the evolution of state, civilisation, and culture as the institution of private property Man's attachment to private property in the history of civilisation has been very great Man's instinct to acquire explains his strong attachment to private property

Rise and Significance of Private Property The institution of private property rose even before the emergence of the state, and in fact proved to be one of the factors helping the evolution of the state At first, there was equality among human beings, and there was no institution of private property but after some time the concept of 'mine' and 'thine' rose, and private property was set up and recognised by custom The expansion of the concept of private property led to the formation of territory, one of the essential attributes of the state Private property connotes not only a possession of things, but an exclusive and permanent control over material objects The right to private property was recognised long back Private property satisfies the instinct of possession, caters to human ego, provides means of livelihood

and serves a powerful incentive to work Laski says "Far from the possession of property there comes that which, above all, man seeks as the means to the harmony in the shape of security The man of property has a stake in the country He is protected from the fear of starvation He does not accept the work he does not desire He can take the leisure in which most men must now find the opportunity of significance He can, if he so wills, surround himself with that environment which makes of life an artistic thing"[1]

Criticism of Private Property In modern times, particularly after the rise of industrial capitalism, which led to the concentration of property in the hands of a few individuals, the institution of private property came in for severe criticism As long as property was regarded as an instrument of good use, it served its purpose very well but no sooner it came to be regarded as an instrument of acquiring power and control over others than its abuse began Therefore the state had to pass legislation to regulate the ownership and use of private property

Various theories regarding private property have been advanced viz the Legal Theory, the Occupational Theory, the Labour Theory, the Individualistic Theory, the Idealist Theory, the Socialist Theory and the Communist Theory

Revolutionary socialism or communism went against the owners of private property In Soviet Russia and Communist China, private property as found in the USA and the UK has been abolished, and only personal belongings or very limited property is allowed Even in other countries, governments have passed legislation to prevent the wrong use of private property India wedded to the concept of a socialistic pattern of society has taken steps to liquidate zamindari and absentee landlordism

(d) Right to Work The right to work is another important civil right, which is a corollary to the right to live The state should provide maintenance to disabled people and work to the able-bodied as every human being has the right to live with its corollary the right to work or maintenance Unfortunately, in most of the countries the state does not undertake or is not in a position to shoulder this responsibility legally, and hence there is on a large scale unemployment among able-bodied people, and the old and the decrepit are left to suffer in their poverty and helplessness

1 A *Garmmar of Politics* (1957) p 173

various walks of life, and to make his life worth living Without liberty, the human being can neither develop his own personality nor serve as a useful member of the community While governments in democratic states pass various law to regulate the life of the individual and society, they see to it that there is no arbitrary restriction on the liberty and free movement of the individual In India, the right to freedom is a Fundamental Right, which is justiciable Liberty is such an invaluable asset that in the eighteenth century revolutions took place in America (1776) and France (1789) for the sake of liberty

(i) **Right to Equality** The right to equality generally means equality before the law and the prevention of any kind of discrimination against any section of society This is again a very precious right, and as stated above, much blood was shed in America, France and other countries for the sake of equality Law should treat all the citizens in a state in the same way It is neither to favour nor disfavour any particular individual or group The state should also mete out the same punishment to all for the violation of law It is gratifying to note that the Constitution of India (1950) has provided equality before the law, and no discrimination on grounds of race, sex, caste or creed shall be practised against any individual The right to equality is also one of the seven Fundamental Rights guaranteed by the Constitution But in countries like South Africa, there is no equality before the law, and discrimination is being practised in the name of race and colour

(j) **Right to Education** The right to education gives full freedom to the individual to educate himself and develop his faculties The right implies that wide educational opportunities are at the disposal of the individual to develop his personality In highly advanced states, government gives all facilities for primary, secondary and higher education, and even introduces compulsory education Education today is as indispensable as food and water Unless the people, the 'masters' in whom sovereignty is vested are educated, they cannot participate in any governmental work cannot understand the currents of politics, cannot express their views, cannot criticise the government, and cannot have the capacity to judge the calibre of candidates, who stand for election In India unfortunately, we shall have to wait for some time before compulsory education is introduced

(k) **Right to Association** The right to association goes hand in hand with the right to speech and the right to liberty and

free movement In a democratic state, people have to express their views freely, meet others and understand their views, form political groups or parties for the propagation of views and establish various kinds of social, economic, cultural and religious associations In every state, the life of the people in the community can be seen through many associations and groups with diverse aims and interests, and without these, man's life would be quite barren Hence, the right to assembly and to form associations is of tremendous significance

3 Political Rights

Political rights are (a) right to vote, (b) right to stand for election, (c) right to hold public office, (d) right to petition, and (e) right to criticise government

(a) Right to Vote The right to vote is the foremost political right, which rose with democracy The individual, who has franchise has a share in the making of government in a democratic state In many states, adult franchise has been introduced, but there are states in which women, people without property and the uneducated are excluded from franchise J S Mill is of the opinion that franchise should not be universal, but [illegible] be based on an educational qualification Laski thinks d[illegible]. According to him, "whenever the body of voters is [illegible] the welfare realised usually excludes that of the persons [illegible] advanced states, the consensus of opinion is in favour of [illegible] unrestricted by any caste, creed, racial, property [illegible] qualifications In India adult franchise has been [illegible] ding to the Constitution (1950), and all [illegible] ed the age of 21 have the right to vote [illegible] criminals, bankrupts and mentally sick [illegible] voting

(b) Right to Stand for Election [illegible] tion in a democracy is a corollary to [illegible] states, while all adults have the [illegible] for election Certain minimum [illegible] are imposed, because all are [illegible] bership of the legislature. Pr[illegible] shown that some members [illegible] and incompetent, and th[illegible] as Laski says "merely fo[illegible] It seems reasonable to [illegible] fications for contesting [illegible]

(c) Right to Public Office The right to public office is another important product of democracy According to this right, no public office is the exclusive monopoly or privilege of any particular individual or group of persons, and all citizens in a state regardless of religion, race, caste, creed or sex have access even to the highest office In India, the Constitution has conferred this right on all citizens Any citizen, whatever may be his religion, caste, descent, and place of birth, can aspire even to the highest post (of the President), provided he has the necessary qualifications This right has gone far in upholding the principle of equality

(d) Right to Petition The right to petition, which gives the citizen the right to express his grievances, is of immense significance, as it provides him with an opportunity to inform government where exactly the shoe pinches Not only the people, but those in authority derive benefit from this right While the people can get their grievances redressed through petitioning, those exercising power can know how the people react and whether they are satisfied or not Here again, it has to be noted, that in a democracy the people are "masters", and the voice of the "masters shall be heeded

(e) Right to Criticise The right to criticise government is another basic political right in a democracy, which is supposed to be government by public criticism This political right is based on the civil right to freedom of expression In a democratic state, there has to be a peaceful conflict of opinions, and for this, the right of criticism is essential This right enables people to draw the attention of the government to their grievances and to the drawbacks in its policies and administration It is public criticism that makes a government responsive and responsible In states like the USA, England and India, people have the right to criticise but not to defame others with malicious intentions Individuals, associations, and the press can bring round even the most powerful government by the pressure of criticism It was criticism that pulled down from power Profumo, the War Minister in England in Harold Wilson's cabinet (for having given defence secrets to a foreign country through Christine Keeler with whom he had love affairs and for having told a lie to Parliament) in *1963 and* V K Krishna Menon, the Defence Minister of India (*whose attitude* and policy were alleged to have facilitated the Chinese to *commit* aggression on India in October *1962)* in the same year *It was* public criticism again that made the Government of *India appoint*

the Das Commission in 1963 to make an enquiry into the affairs of Sardar Pratap Singh Kairon, the Chief Minister of Punjab against whom several serious allegations had been made The Sardar had to resign on the basis of the findings of the Commission

D Fundamental Rights

Very Essential Rights Rights, which are quite essential to man are called fundamental rights, and in normal times, every democratic government guarantees them In modern constitutions, a list of the basic rights is drawn up The concept of fundamental rights in a very clear form rose in modern times, when liberalism and democracy emerged

In modern times, direct democracy is not possible, what concerns all is not discussed by all, but only by the representatives of the people Besides, the way in which political parties function and seize and exercise power has created a sense of frustration and dissatisfaction among the people In some states, the party, which forms government may develop dictatorial power (in a democratic frame work), when it commands absolute majority support in the legislature, and when there is no hope for the opposition to form an alternative government The possibility of a certain party in power passing legislation to increase its own power to the detriment of the country, and restricting the rights of the people cannot be ruled out Hence, it is quite essential to have a list of fundamental rights on which no party in power will be able to encroach

Modern democracy stands for the rule by the majority party, which may not treat the minorities fairly and justly The problem of minorities is one of the most vexed questions in a modern democratic state To dispel the fear that the rights of minorities may not be trampled upon, adequate constitutional guarantees are given through fundamental rights When basic rights are clearly mentioned and defined, and put in the form of a Bill of Rights or Fundamental Rights courts uphold them and act as their watchdogs In the Constitution of India, there is a list of Fundamental Rights, which is a shield of protection to the minorities Though Britain does not have a list of such rights (Britain has an unwritten constitution), the judiciary safeguards people's interests Besides the actual benefit derived by minorities from the clearly

defined fundamental rights, the psychological effect is also very great People not only have rights, but also have a feeling that their rights are given a place in the sun

Fundamental Rights in India The Constitution of India (1950) includes a list of seven Fundamental Rights That the list of rights is just not an ornament but is meaningful has been proved time and again The Supreme Court and the High Courts gave several verdicts in favour of the aggrieved parties, when the executive made inroads into their Fundamental Rights The Fundamental Rights in India, which are justiciable are the props of democracy and make it meaningful, they uphold the dignity of the individual and safeguard the rights of minorities They impose restraints on government, and prevent it from encroaching on the basic rights of the people

The Fundamental Rights in the Constitution of India are

1 **The Right to Equality** This right covers a very wide range, as it stands for equality before the law, social equality, equality of opportunity, abolition of untouchability and abolition of titles

2 **The Right to Freedom** Like the Right to Equality, this right too has a wide range, and it includes freedom of expression, freedom of assembly and movement, freedom of residence, vocation and the right to property, protection of life and liberty, and protection against arrest and detention

3 **The Right Against Exploitation** This right expresses itself clearly against traffic in human beings and forced labour

4 **The Right to Freedom of Religion** This makes India a secular state, and gives toleration to all people, who can follow any religion they like The state does not have any offical religion, and it does not use public funds to encourage or discourage any relgion

5 **Cultural and Educational Rights** This right enables people to have their own language and script, and practise their own culture without let or hindrance All citizens have equal cultural and educational rights, and minorities have the right to establish and run their own educational institutions

6 **The Right to Property** Citizens have the right to acquire, hold and dispose of property The Constitution says, "No person shall be deprived of his property save by authority of law"

Article 31 of the Constitution was amended by Parliament to take away from the judiciary the power of going into the question of compensation given to property-holders, whose private property is taken over by government This step was taken because zamin dars challenged legislation, which abolished Zamindari

7 **The Right to Constitutional Remedies** This right enables citizens to move the Supreme Court or the High Courts to get the Fundamental Rights restored, when they are violated To safeguard and uphold Fundamental Rights, the Supreme Court or the High Courts can issue different types of rights viz *(1) Man damus, (2) Habeas Corpus, (3) Quo Warranto, (4) Prohibition, and (5) Certiorari*

It has to be noted that no Fundamental Right is absolute and the Constitution empowers the President of India to restrict them in times of emergency This power was fully used by the President, who proclaimed an emergency, when the Chinese committed aggression on India in October, 1962 The Emergency continued till January, 1968

E Rights and Welfare State

Increase of State Powers A recent trend noticeable all over the world is the rapid increase in the powers of the state, resulting in more and more interference in the life of the indivi dual While on the one hand the individual speaks of his basic rights for developing his personality, the state on the other hand arms itself with more powers (which erode the individual's rights) to promote the general welfare of the people Even in democratic states, a sort of totalitarianism is slyly effecting its entry in the name of welfare "In a modern society the right of the citizen in relation to the state is the most complicated of all problems Every state in the world today is totalitarian, in the sense that it claims the totality of powers It was said in the beginning of the century that the modern state was Jenghiz Khan with the telegraph line Today much more than that And yet all this concentration of power is said to be in the interests of the individual himself And to a large extent it is true"[1]

Changing Concept of Rights A system of duties and rights has been set up in every advanced state Every duty or right has a purpose behind it As times are changing, the spirit in which rights are enjoyed has to change One should not be dogmatic

1 K M Panikkar *The State and Citizen* (1960) p 4

about the content of one's rights For instance, in no state, can an individual argue like the individualists of the nineteenth century that his rights are absolute, and that the state should not impose any restriction on the individual Individualism or *laissez faire* was discredited, and rejected by the end of the nineteenth century itself Today, the concept of the welfare state has been gaining ground In the interests of the welfare state and in the larger interests of the community, it is necessary to impose certain restrictions on rights

New **Type of Individualism** Today, a new type of individualism has risen, and it has shifted the emphasis from the individual to the group Rights at present are viewed more through the angle of society than through that of the individual The right to private property, which was regarded as absolute by individualists has been restricted in almost every state owing to the impact of socialist forces whether democratic or revolutionary Today, states desire to see that unlimited property or wealth is not concentrated in the hands of a few individuals

F How Rights are Safeguarded

***Periodical Elections,* Independent Judiciary etc** Rights can be safeguarded in the following different ways

(1) by constitutionally declaring certain rights as fundamental

(2) by laying down remedial measures,

(3) by setting up an independent, fearless and upright judiciary armed with necessary powers,

(4) by holding periodical elections on the basis of adult franchise

(5) by methods of direct legislation like referendum and initiative, and

(6) by keeping the judiciary separate from the executive

With all these safeguards, however, little can be achieved, if the members of society are not vigilant, and do not care either for their own rights or those of others Much depends on the level of political consciousness among the people

MAIN POINTS

1 **Meaning of Obligations** Certain do s and don t to be followed Individual to behave in a proper way in the interests of all Obligations only in a social context Obligations and rights correlated Same conditions viewed from different angles

2 **Kinds of Obligations** (I) Moral and Legal Moral obligations have only sanction of society No state action if not done But all have to discharge legal

obligations Moral obligations not prescribed by state Punishment if legal duties not done (2) Positive and Negative Obeying do s are positive obligations and obeying don t s negative obligations

3 **Important Obligations** (1) Obeying laws (2) Resisting bad laws (3) Showing full loyalty to state (4) Paying taxes (5) Casting vote and holding public office (6) Fully co-operating with government

4 **Meaning and Theories of Rights** (a) Right a condition or disinterested wish Rights have meaning only in society (b) Theories of Rights (1) Theory of Natural Rights Rights created by nature and not given by state Greek and Roman opinion Opinion of Hobbes Locke Rousseau and Paine Theory partially correct (2) Legal Theory of Rights State creates rights Partially correct All rights are not created by tate (3) Social Welfare Theory of Rights Rights are created by society for promoting social welfare Utilitarians speak of the greatest happiness of the greatest number Theory is partly correct (4) Idealist Theory Rights for the development of per onality Rights and moral development of man linked Harm done by Extreme Idealists (5) Historical Theory of Rights Rights product of history Based on custom Theory partly right All customs not good

Truth can be known by studying all theories Each is only partly right

5 **Kinds of Rights** (1) Moral and Legal Moral rights cannot be enforced like legal rights Legal rights are of two types political and civil (2) Civil rights are (a) right to life and security, (b) right to family (c) right to property (d) right to work (e) right to contract (f) right to speech (g) right to religion (h) right to liberty and free movement (i) right to equality (j) right to education and (k) right to association

6 **Political Rights** These are (a) right to vote (b) right to stand for election (c) right to hold public office (d) right to petition and (e) right to criticise government

7 **Fundamental Rights in India** Very essential rights which are justi ciable (a) Right to Equality (b) Right to Freedom (c) Right against Exploitation (d) Right to Freedom of Religion (e) Cultural and Educational Rights (f) Right to property and (g) Right to Constitutional Remedies

8 **Rights and Welfare State** Increase of state powers for promoting people s welfare Changing concept of rights Individualism discredited Rights never absolute

Liberty has been defined in another simple way "Liberty is free choice, each individual's own decision concerning his own course of action, it belongs to himself, not to the external world that surrounds him"[1]

Ramsay Muir opines "By liberty I mean the secure enjoyment by individuals and by natural and spontaneous groups of individuals, such as a nation, church, trade union, of the power to think their own thoughts and to express and act upon them, using their own gifts in their own way under the shelter of the law, provided they do not impair the corresponding rights of others"

Liberty not Absolute Liberty cannot be absolute and unrestricted, as it has to be understood in a social context, in which the needs of the individual should be in harmony with those of society Lieber says "Liberty in its absolute sense means the faculty of willing and the power of doing what has been willed, without influence from any other source or from without In this absolute meaning there is but one free being, because there is but one being whose will is absolutely independent of any influence but that which he wills himself, and whose power is adequate to his absolute will—who is almighty"[2] It is impossible for all persons in society and state to enjoy liberty in the absolute sense in case, one person is allowed to have absolute and unrestrained liberty, it will be impossible for others to have any liberty worth the name Unrestrained and unregulated liberty would mean the law of the jungle and the unbridled licence to do anything dictated by a man's passions If the strong man sees no restraints in society and state, he is likely to condemn other people to slavery without feeling anything for others "The utmost freedom of action that each and every individual can enjoy upon like terms at the same time is to be completely unrestrained in his actions in so far as they do not interfere with the like freedom of his fellows"[3]

In modern times, political scientists have devoted much time to the study of the concept of liberty The content of liberty is not static, it changes with the times, though "its large outlines may have a permanent character" "What one generation regards

1 Massimo Salvadori *Liberal Democracy* (1957) p 21
2 Quoted in S Leacock *Elements of Political Science* (1932) p 69
3 Op cit p 69

as an indispensable liberty, another may feel should be sacrificed to the needs of changing times and conditions "[1]

State of Freedom Opposed to Political Subjection Liberty "as a state of freedom is especially opposed to political subjection, imprisonment or slavery Its two most generally recognised divisions are civil and political liberty "[2] At the altar of liberty, individuals and countries have prayed and have agreed to fight relentlessly to secure it It was the love of liberty that provoked people in England to revolt against the tyrannical Stuarts, American colonists against George III s oppressive government in England, the French against the unjust and bankrupt government of Louis XVI and the people in Latin America against their imperialist masters in Europe Patrick Henry, the revolutionary leader raising his voice against Britain in the American colonies said 'Give me liberty or give me death " The French revolutionaries shed blood for the sake of the magic words *liberty, equality* and *fraternity* Obviously, these various movements were inspired by the urge to break the chains of restraints arbitrarily and unjustly bound around the feet of the people by their rulers The *Declaration of* the *Rights of Man* adopted by the French revolutionaries in 1789 stated "Liberty consists in the power to do everything that does not injure another "

Greek Idea of Liberty The Greeks in city states like Athens claimed that they were great lovers of liberty of thought and action "The basic idea of liberty as a part of the armoury of human ideals goes back to the Greeks and is born, as the funeral oration of Pericles makes abundantly clear, of two notions the first is the protection of the group from attack, the second is the ambition of the group to realise itself as fully as possible "[3] The Greeks, however, did not know the conception of liberty *as we understand it now,* they did not differentiate between state and society, state and government, and thought in terms of life-partnership with the state They did not have any rights as such against the state, and individual liberty, the product of rights as we know it and enjoy it in the modern state now, did not exist According to the other Greek meaning, liberty, a positive concept meant the right and obligation to participate in the making of political decisions, the right to vote, the right to hold office and so on

1 R K Carr and Others *American Democracy in Theory and Practice* (1961)
2 *Encyclopaedia Britannica* Vol 13 (1947) p 1005
3 *Encyclopaedia of the Social Sciences* Vol 1 (1954) p 442

Liberty Understood Positively and Negatively Liberty can be understood positively and negatively "The positive concept of liberty admits that there must be compulsion if liberty is to have a practical meaning whereas the positive view of liberty expresses the freedom to do something, the negative aspect connotes the freedom from having to do something "[1] Liberty to have any value is to be enjoyed by all, and not by a selected few only Liberty does not merely mean an absence of restraint from any one, it also implies the prevalence of positive conditions for the growth of the personality of one and all Liberty is present, when people have rights and therefore liberty is regarded as the product of rights (See chapter 19 on *State Authority and Obligations and Rights of the Individual*) "Freedoms are therefore opportunities which history has shown to be essential to the development of personality And freedoms are inseparable from rights because otherwise their realisation is hedged about with an uncertainty which destroys their quality "[2]

Realisation of Potentialities of Personality Liberty ensures conditions, which are most congenial to the free expression of thought and freedom of action and to the full development of the individual s personality "Individual freedom or liberty is the necessary condition for the realisation of the potentialities of personality The sheltered protected person, like the slave whose choices are made for him by others, is likely to be a colourless, starved, and even weak, personality It is the making of moral choices in which we assess the alternatives and then have to abide by the consequences of the decision that develop character and make life rich and meaningful The long struggle for individual freedom arose from the claims of ever large number of men seeking to secure for themselves this means to the enrichment of their lives "[3] Liberty finds an important place in the study of democracy as a form of government and a way of life It is only under a democratic government that the individual enjoys full liberty There is no liberty under a totalitarian government H J Laski observes "By liberty I mean the eager maintenance of that atmosphere in which men have the opportunity to be their best selves Liberty therefore is a product of rights A state built

1 *The Encyclopaedia Americanna Vol* 17 (1959) pp 349-50
2 H J Laski *A Grammar of Politics* (1957) p 144
3 J A Corry *Democratic Government and Politics* (1958) p 29

upon the conditions essential to the full development of our faculties will confer freedom upon its citizens"

Liberty cannot be taken for granted in countries, in which there are no representative institutions A person, who lives in a state, in which government is based on consent has an experience, which is different from the one a man has under a tyrannical government In the former, the individual has various kinds of rights, whose product is liberty, and in the latter the individual is denied rights, and feels the conspicuous absence of liberty Ernest Barker says "The procedural rule or principle of liberty means that the state treats each and every moral person as a free agent, capable of developing his own capacities in his own way, and therefore capable of enjoying and exercising the rights which are the conditions of such development"[1]

Liberty Implies Personal and Group Responsibility Liberty is contrary to unbridled activity, which is harmful to the general interests of society It carries with it a great sense of responsibility of choosing the right type of action and the right type of restraints "Liberty implies restraint which, in a democracy, means societal self-restraint to be exercised where necessary for the security and welfare of the community and in accordance with the will of majority as expressed through democratic processes In other words, liberty implies personal and group responsibility" The liberty of one man has to be consistent with and agreeable to the liberty which other men enjoy Liberty unaccompanied by reasonable restraints ceases to be liberty, and comes in the way of the liberty of others Herbert Spencer aptly observes "Everyman is free to do that which he wills provided he infringes not the equal freedom of any other man"

State to Create Necessary Conditions The individual enjoys liberty, when the state creates the necessary conditions The state prevents an individual from encroaching upon the liberty of others In a state, the individual may have constitutional and legal guarantees for the enjoyment of liberty The state plays a useful role by unholding the rights which give liberty, and by taking action on those, whose activities are prejudicial to the interests of others Champions of democracy regard liberty as a priceless possession of the individual and society Without it,

1 *Principles of Social and Political Theory* (1952) p 140
2 Rodee Anderson and Christol *Introduction to Political Science* (1957) p

human beings have no scope to develop their personalities fully The chances, which individuals have in a democracy, are denied to those living in a totalitarian state "Democrats believe that liberty is good for the individual and also for society, that a free individual can rise to higher levels of human development than a regimented one, and that a society made up of free individuals will be more inventive, productive, intelligent, and moral one than one composed of persons whose every act is ordered by some higher authority"[1] Liberty as found in democracies like Britain, the USA, France and India upholds the dignity of the human personality In states like the USSR and Communist China, people do not enjoy liberty, on the contrary, they are subject to totalitarian control and regimentation The state itself encroaches on the liberty of the people in these states instead of ensuring it to them

Liberty in India According to the Constitution (*1950*), India is a Sovereign Democratic Republic, in which the right to freedom is included in the list of fundamental rights This right includes (1) freedom of speech and expression, (2) right to assemble peacefully, (3) right to form association, (4) right to move freely, (5) right to reside anywhere, (6) property right, and right to practice trade The right to freedom is guaranteed by the Constitution, and is justiciable

B Categories of Liberty

Liberty is a term conveying a wide range of ideas, and one can speak of different types of liberty R M Mac Iver observes in his *The Modern State* (1950) "Liberty itself is not one but manifold There are many forms of liberty liberty of thought and of its expression, liberty of action in hundred external spheres, civil liberty, economic liberty and so forth, each of these again having many divisions, such as in the economic field, the liberties of contract and of competition" (See the table on 269 Categories of Liberty)

To have a clear idea of liberty as understood in various capacities, it is necessary to examine the different types of liberty

1 Ibid p 91

Categories of Liberty

Broadly understood liberty can be brought under different categories viz (1) Natural Liberty, (2) Civil or Personal Liberty, (3) Political Liberty, (4) Economic Liberty, and (5) National Liberty

LIBERTY

Natural liberty	Personal or Civil liberty signifies	Political liberty signifies	Economic liberty signifies	National liberty signifies
Independent of and prior to state (synonymous with the law of the jungle)	1 Right to speech 2 Right to movement 3 Right to have property 4 Right to live freely 5 Right to have one's own culture	1 Right to vote 2 Right to be elected 3 Right to hold public office 4 Right to criticise government	1 Right to work 2 Right to an adequate wage 3 Right to leisure 4 Right to benefits against sickness and unemployment 5 Right against exploitation	Complete internal and external independence (basis of political and civil liberty)

1 Natural Liberty

Unrestrained Freedom As generally understood, natural liberty indicates the unrestrained freedom to do what one pleases Such a type of liberty does not and cannot exist in the state, as no individual can be allowed complete freedom to do anything he likes without harming the interests of others Unrestrained liberty is the very negation of liberty Natural liberty must have existed at a time, when there was no society or state Contractualists like Hobbes, Locke and Rousseau speak in terms of a state of nature in which there were no restraints The primitive man did whatever he liked, and only the superior brute force of his opponents could curb his 'natural liberty' With the emergence of society and state, and with the rise of several restraints, natural liberty had to end While in the state the weak are protected, in a state of natural liberty, the weak were always exposed to the tender mercies of the strong Natural liberty is synonymous with injustice and complete anarchy

If understood rationally and in the proper spirit in the light of man's needs as a social and political animal, natural liberty may be taken to mean the freedom given by nature to all, the need to treat all as equals in society, and the prevention of any one from taking undue advantage of his position and from claiming rights, which others do not have

Natural Liberty and Natural Law The concept of natural liberty can be intimately connected with the law of nature The Stoic philosophers in Greece and the Roman thinkers, who were influenced by them spoke of the law of nature, which they believed was based on justice and reason According to Cicero, "there is a single law or system of laws governing the whole universe, it applies to everything that exists in divine creation, animate as well as inanimate, rational as well as non-rational It is as old as time and is the source of the state itself, the state is partnership of law ' The Romans valued *ius naturale* (natural law) over any law While governing a mighty empire, the Roman statesmen thought in terms of natural liberty as connected with natural law In governing different types of people, the practical-minded Roman rulers were influenced by natural law, and in the evolution of Roman law *ius civile*, *ius gentium*, and *ius naturale* were blended together The concept of natural law travelled beyond the barrier of the ancient time, and found a place, in the writings

of the medieval Church thinkers, who found natural law in the law of God and the law of the Church In modern times, through the writings of Locke and Rousseau natural law exerted its influence The American and French revolutionaries were inspired by the ideas of liberty and equality as could be discovered in the law of nature

2 Civil Liberty

Physical Freedom, Intellectual Freedom and Practical Freedom Civil liberty means absence of restraints which are unreasonable and illegitimate Civil liberty prevails, when authority is legitimate and restraints are imposed in accordance with law and constitution Civil liberty includes physical freedom, intellectual freedom and practical freedom "The right to personal liberty as understood in England means in substance a person's right not to be subjected to imprisonment, arrest or other physical coercion in any manner that does not admit of legal justification "[1] According to to Barker, "civil liberty consists in three differently expressed articles physical freedom from injury or threat to the life, health and movement of the body intellectual freedom for the expression of thought and belief, and practical freedom for the play of will and the exercise of choice in the general field of contractua action and relations with other persons " The individual wants to be left to himself so that he can think freely, speak freely, move freely, act freely, live freely, and suffer from no coercion of any type Civil liberty is of immense value to the individual and associations in a state

Personal Freedom As stated above, civil liberty includes personal freedom, which means existence of conditions is which the individual can act as he pleases without being under any type of arbitrary or illegal restraint or control In the words of F A Hayek, freedom or liberty is a "condition of men in which coercion of some by others is reduced as much as possible in society The state in which a man is not subject to coercion by the arbitrary will of another or others is often also distinguished as individual or personal freedom "[2] A government which values and upholds freedom will treat with respect the personality of the individual Every human being has an importance as an

1 A V Dicey *Introduction to the Study of the Law of the Constitution* (1956) p 207

2 *The Constitution of Liberty* (1959) p 11

individual, and this has to be fully recognised Every individual should have the maximum freedom, which however should not be a happy hurdle to the freedom of others There should be a balance between the freedom of one individual and the freedom of others

In states like England and the USA, people attach great importance to civil liberty and personal freedom, and resent the least encroachment on it For instance, Englishmen and Americans do not like to be dictated by the state as to how they should live, what religion they should follow, what avocation they should pursue, what opinion they should have, how they should dress and how they should plan their life in general They want to be left completely free to live in their own way, and develop themselves according to their own ideas, tastes and values The Englishman is ever jealous of his rights as a person, and he wants his home, which he proudly regards as his castle, to be free from any outside interference J S Mill was a staunch advocate of freedom and great champion of individual liberty, and his essay *On Liberty* has been regarded as a masterpiece Mill pleads for tolerance for various points of view and ways of living Mill's opinion has to be understood in the light of the fact that in a modern democracy, power falls into the hands of the majority party Every individual, whether he belongs to the majority or to the minority should be given complete personal liberty and tolerance Mill says "If all mankind minus one were of one opinion and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power would be justified in silencing mankind"

Roosevelt's Four Freedoms In 1941, President F D Roosevelt of the USA spoke for the cause of liberty by upholding four basic freedoms or liberties viz (1) Freedom of Speech and Expression (2) Freedom of Religion,[1] (3) Freedom from Want, and (4) Freedom from Fear In the twentieth century, the eminent philosopher Bertrand Russell has underlined the tremendous significance of personal freedom which is preferred even to political freedom The rise of Fascism in Italy under Mussolini and Nazi totalitarianism under Hitler in Germany proved to be

1 Religious freedom took longer to be recognised than other types of freedom For ages religion was controlled by the state

a great threat to democracy and freedom, and therefore in declaring the war aims, President Roosevelt made a pointed reference to the Four Freedoms

Liberty in Democratic and Totalitarian States The recognition and protection of civil liberty is an important obligation of government Law protects the individual's liberty from encroachment by others The individual has to be protected also from any government action which is dangerous to his civil liberty A Bill of Rights as in the USA or a list of Fundamental Rights as in India protects the individual from any encroachment by the state Quite unlike the totalitarian states like the USSR and Communist China, democratic states give full civil liberty to the individual

Civil liberty in democratic countries has been realised through

(1) the recognition of the distinction between state and government,

(2) a democratic constitution written or unwritten,

(3) the actual definition of the rights of private action and

(4) the recognition of fundamental rights

Britain has not drawn up a list of fundamental rights, but even then, the ordinary courts are equal to the task of affording complete protection to the civil liberties of the people In England, there is no difference between constitutional law and ordinary law While in the USA and India, the states which have written constitutions, the Supreme Courts can declare laws of government *ultra vires*, if they violate the constitution, courts in England are not competent to question the validity of laws passed by Parliament In totalitarian states, liberty is denied to the people Government exists for and is run by a particular party, and the liberties of the people are ruthlessly suppressed

3 Political Liberty

Synonymous with Democracy Political liberty, or constitutional liberty as some would like to call it, is considered synonymous with democracy "If a man is free to advocate his thoughts, and to associate himself with others for their common advocacy, he must be free to advocate personally thoughts of his own about the affairs of the commonwealth and not only so, but also to form or join political parties by which such or similar thoughts

are generally advocated "[1] All over the world freedom-loving peoples passionately crusaded to win recognition of civil liberty, and when they succeeded, they realised that it was not quite meaningful unless backed by political liberty

If democracy is to be real and meaningful, people must enjoy political liberty Political liberty includes certain minimum rights viz (1) the right to give vote, (2) the right to stand for election, (3) the right to hold public office, and (4) the right to express political views and to criticise government In states like Britain, the USA and India, the individual enjoys full political liberty All these rights, which give political liberty enable the individual to have a share in shaping government policies Political liberty should be constitutionally and legally recognised, and proper conditions should be created to give it the maximum scope The spread of education, the formation of political parties and the freedom of the press go far in increasing the scope of political liberty

4 Economic Liberty

Significance of Economic Rights In modern times, the significance of economic liberty has been realised In his book *A Grammar of Politics* Laski says "By economic liberty, I mean security and the opportunity to find reasonable significance in the earning of one's daily bread I must that is, be free from the constant fear of unemployment and insufficiency which, perhaps more than other inadequacies, sap the whole strength of personality I must be safeguarded against the wants of tomorrow "[2] It is being increasingly felt that any type of liberty is barren, unless there is economic liberty Civil liberty and political liberty will mean little to hungry stomachs Political liberty and civil liberty do not prevent the exploitation of the poor by the rich, and in fact they have been misused for selfish purposes While in democracies people have the right to vote and the right to free movement, not to speak of other rights, they may not have economic liberty, which alone can make them free from economic exploitation In several states, those who have political power misuse it and exploit the people (who enjoy civil liberty and political liberty) without any hindrance Who cares for the right to vote or the right to form associations and freedom of expression, if there is no freedom from want or economic liberty ?

1 Ernest Barker *Reflections on Government* (1958) p 11
2 Op cit p 148

Democracy Meaningless Without Economic Liberty Democracy is meaningless and has no content without economic liberty Without adequate economic security, the individual cannot develop himself and can have no interest in life even in a democratic state It has been rightly said that democracy should enter the economic field and guarantee employment and minimum wages to workers "Economic liberty, therefore, implies democracy in industry That means two things It means that industrial government is subject to the system of rights which obtain for men as citizens, and it means that industrial direction must be of a character that makes it the rule of laws made by co-operation and not by compulsion "[1]

How to Secure Economic Liberty Broadly speaking, economic liberty can be secured in the following ways

(1) by defining the economic rights of the people,

(2) by recognising the status of the worker and providing scope for the development of his personality,

(3) by guaranteeing the individual's right to work,

(4) by making provision for minimum wages,

(5) by providing adequate leisure, and

(6) by shielding workers from the woes of unemployment, sickness and old age

Over and above all these, workers may be given representation on the management of industrial and other concerns so that their interests may be protected This will also bring legitimate pride among workers that they are not a negligible quantity, and there will be sufficient reason for workers to show their initiative and drive in any work they undertake

5 National Liberty

Complete Independence Like individuals, groups of people can also think in terms of liberty The people in a state can think of liberty in a corporate capacity When all people have liberty as individuals belonging to a nation, liberty becomes national National liberty is of great importance, as it provides a basis for civil, political and economic liberty There is national liberty in a state, when people are completely free from any foreign control, and have a government of their own In other words, when a state attains a full *sovereign status, national liberty is possible* Indians did not have national liberty before India became completely independent (August 15, 1947)

1 Ibid p 148

C Safeguarding Liberty

Owing to various causes, people all over the world became conscious of their rights and fought for liberty In ancient and medieval states, people did not have liberty, as they have now In highly advanced countries after the 'conquest' of liberty, people wanted to safeguard it from all kinds of dangers

Laski's View Laski makes certain significant observations and points out how liberty can be safeguarded ' He says

(1) " Freedom will not be achieved for the mass of men save under special guarantees" and it cannot "exist in the presence of privilege "

(2) " Special privilege is incompatible with freedom because the latter quality belongs to all alike in their character as human beings '

(3) Liberty cannot be realised in a state in which "the rights of some depend upon the pleasures of others "

(4) State action is necessary for safeguarding liberty Certain persons in society are likely to destroy the livelihood of others and may through maldistribution of wealth impair the interests of others "At every point, therefore, where the action of a minor group of men may impinge upon the exercise of rights a c n l is wanted which will frustrate their power to so impinge

Laski has rightly emphasized the need of having adequate guarantees of liberty

Essential Conditions for Liberty Every modern state guarantees liberty legally speaking in its own way, as all states have not evolved a common method The manner of guaranteeing liberty depends on the type of constitution Liberty can be safeguarded only when the following conditions are fulfilled :

his liberty, and if a nation goes to slumber, it will also lose its liberty No nation can retain its liberty, if the people wish to throw it away to foreigners As Byron has aptly put it "Eternal vigilance is the price of liberty" People should always remain vigilant, lest national liberty is snatched away by a foreign power or lest the government itself deprives the people of liberty If people are indifferent, and go to slumber, liberty will be lost

2 **Democratic Government** Only a democratic government can safeguard liberty So people should have a responsible government, which can be questioned by their representatives

3 **Separation of Powers** The introduction of the principle of separation of powers will ensure liberty One organ of government should not be allowed to have complete control over another The judiciary must not be under the control of the executive, and its independence should be safeguarded by the constitution The principle of separation of powers is embodied in the American constitution In the USA courts, which have the power of judicial review of legislation and administration are the guardians of civil liberty In many democracies the national legislature plays an important part in protecting civil liberties In continental Europe, administrative courts give protection against encroachment on liberty

4 **List of Fundamental Rights** Another essential condition of safeguarding liberty is a clear and unambiguous list of fundamental rights People should be aware of their rights, and government should be aware of the limitations of power A list of fundamental rights guaranteed by the constitution is an excellent shield to the individual The Constituent Assembly of India (1946-49) prepared a list of seven Fundamental Rights, which have been enshrined in the Constitution (1950) These rights are justiciable, and the Supreme Court and the High Courts, can declare any law going against them as *ultra vires* of the Constitution In hundreds of cases, the judiciary did rise to the expected level in protecting Fundamental Rights

5 **Restrictions on Powers of Legislatures** Ivor Jennings believes, that besides limiting the powers of the executive, it is necessary to check the powers of the legislature, which claims to represent the opinion of the majority of the people Actually the legislature may not always reflect public opinion, and the majority party in power in a parliamentary democracy may ignore the interests of or work against the wishes of minorities Legislature may

the handmaid of the party in power, and it may trample on the rights of the minorities "It is, therefore, usually regarded as desirable not only that the ordinary law shall protect the right of free speech, the right of association and the right of public meeting, but also that the powers of changing the law whether by legislation or administrative regulation shall be so restricted that these rights may not be interfered with "[1] The constitution should clearly define the powers of the legislature bearing in mind the rights of the minorities

6 **Rule of Law** The rule of law, which provides equality before the law to all is supposed to be a sure guarantee of liberty The USA has a written constitution, and there is a list of the most important rights called the Bill of Rights Britain does not have a written constitution or separation of powers, and no court of law can sit in judgement on a law passed by Parliament, yet the Briton does not have less liberty than the American This is because England has the rule of law, which is regarded as the key to British Liberty In Britain, power is exercised, not arbitrarily, but according to law and principles of the constitution "There is in the English Constitution an absence of those declarations or definitions of rights so dear to foreign constitutions In England the rights to individual liberty is a part of the constitution because it is secured by the courts, extended or confined as they are by the Habeas Corpus Acts "[2]

7 **Public Opinion and Free Press** When government rules arbitrarily and erodes the rights of the people, they should assert themselves against the government, and make use of all the agencies of public opinion to bring strong pressure on government Healthy public opinion and a free press can do much to protect liberty In Western democracies, the power of the press is of great significance The press and other agencies mould public opinion "In the final analysis public opinion is the ultimate sanction behind all bills and declarations of individual liberties Courts as well as legislative assemblies, reflect (whether promptly or belatedly) the temper of the popular mind "[3] Political parties can go far in upholding liberty These have become indispensable in modern times A strong political party with the backing of large sections

1 Ivor Jennings *The Law and the Constitution* (1955) p 241
2 A V Dicey *Introduction of the Study of the Law of the Constitution* (1956) p 197
3 Rodes Anderson and Christol *Introduction to Political Science* (1957) p 191

of the people can overthrow a government, which destroys the liberty of the individual

D Sovereignty, Law and Liberty

Sovereignty Necessary for Liberty Critics of the monistic theory of sovereignty point out that the sovereignty of the state is inconsistent with the liberty of the individual It is made out that liberty, and absolute and inalienable sovereignty cannot co-exist For instance, pluralists, who underline the importance of various associations in political and social life and claim complete autonomy for them are against giving sovereignty to the state But pluralists are wrong, as they overlook the fact that it is sovereignty that provides content to liberty, and without sovereignty liberty will be empty Though apparently the two cannot be friendly, a close examination of the needs of society makes it clear that liberty is not possible without the sovereignty of the state The state can protect the liberty of the individual against those who encroach on it by making use of sovereignty or supreme coercive power Liberty is at stake only when the sovereignty of the state is expressed through an irresponsible despot Sovereignty is essential for liberty, for without it the state would have no power to punish law-breakers, and there would be complete anarchy and no atmosphere of freedom

Law Condition of Liberty A significant question that can be asked is whether law and liberty are antithetical or friendly to each other A direct answer to this question cannot be given It depends upon the form of government people have, the spirit of people and other factors In a normal form of government, free from perversions, law aids liberty, and actually becomes a favourable condition of liberty Without law, the vehicle of sovereignty, there can be no liberty People have liberty, as the state is sovereign and is competent to impose legal limitations on the behaviour of individuals and associations Though there are restraints on liberty, they are reasonable and essential, and they act as a bulwark of liberty If good laws can be conditions of liberty, bad and oppressive laws are obstacles and dangers to liberty When bad and oppressive laws are made, the opportunities for the development of the individual's personality are narrowed down This will explain why laws in the various states of the world do not provide the same content of liberty In some states, laws are good conditions of liberty, in others, they provide a

limited range of liberty, and in another category of states, laws are antagonistic to liberty In India according to the Constitution, people enjoy full political and civil liberty, which could not be found under British rule Subject peoples in the British empire did no enjoy so much civil liberty as enjoyed by British citizens In a country like England, there is great harmony between law and liberty This is because England has democracy as a form of government Laws are made by parliament, which consists of representatives of the people However, it must not be taken for granted, that in all democratic countries law and liberty will agree with each other Modern democracy is indirect or representative, and its functioning is based on the party system In Britain, which has long standing healthy democratic traditions, chances of a conflict between law and liberty are remote, as the people are vigilant, politically conscious, and well informed and jealously guard their liberty People can force the government to resign, if it rides rough-shod over their liberty

Balance between Sovereignty and Liberty In advanced countries like Britain, it is possible to strike a balance between sovereignty and liberty, but in developing countries it is difficult. In backward countries, people are not politically sensitive, conscious and vigilant, and an excess of law may result in the destruction of liberty, and an excess of liberty may mean mob rule To be successful, democracy has to avoid the two rocks of despotism and mob rule R G Gettell says in his *Political Science* (1956) "The balance between sovereignty and liberty is too nicely adjusted to be easily maintained and tends always towards despotism on one hand and anarchy on the other Constant vigilance is necessary to preserve the balance under changing conditions, and modern states are not agreed as to what is proper adjustment or how it may best be secured"[1] The healthy relationship between sovereignty and liberty as found in Britain cannot be found in countries like India In Britain are found all conditions essential for the smooth working of democracy but not all of them are present in India

Conflict between Law and Liberty In India, people are not so politically conscious as in Britain, and through the party majority it has been actually possible for the government to pass some laws, which have gone against the spirit of the Constitution. In Britain, the opposition party is strong, and the government (supported by the majority party in Parliament) cannot afford to

1 Op cit p 98

remain in saddle for a long time, if it treats the opposition with contempt On the other hand, in India no opposition party worth the name has emerged as shown by the result of the four General Elections (1952, 1957, 1962 and 1967) with the result the party in power has no need to get scared of anybody Law should suit the real needs of the people, and in making it the people should have a share Law which is contrary to the interests of the people will endanger their liberty Even in a democracy, therefore, the possibility of passing a law, which antagonises liberty cannot be ruled out. In India the Gold Control Order has trampled upon the liberty of the people, whatever may be the justification to pass the same according to the ruling party It is doubtful whether such a law could have been passed in a country like Britain or the USA Gold Control Legislation in India could be passed on the sheer support of the Congress majority party in the Lok Sabha The continuation of the Emergency since October, 1962 till January 1968 and the repeated extension of the Preventive Detention Act till the end of December, 1969 have restricted liberty in India

Conditions for Harmony between Law and Liberty Law and liberty will be friendly only under the following conditions

(1) when the government in a country is responsive and sympathetic to the people and understands their aspirations,

(2) when the opposition is effective, and it criticises and warns the government from time to time,

(3) when the press makes constructive criticism of government policies,

(4) when the courts of law function independently and fearlessly, and

(5) when the people are vigilant

The relation between law and liberty cannot be static, it has to change with the changing times Every state should realise that sovereignty is not to be bartered away, and at the same time, the liberty of the individual is not to be thrown overboard "Sovereignty carried to the extreme becomes tyranny and destroys liberty, and liberty carried to the extreme becomes anarchy and destroys sovereignty The efforts made by states to reach a satisfactory compromise between these two equally undesirable extremes comprise a large part of the history of politics, and no permanent solution has yet been reached"[1]

1 Ibid p 149

No Liberty in Dictatorship and Totalitarianism In a totalitarian state or a state in which power is in the hands of an irresponsible tyrant or despot, law will never oblige liberty In such a state, liberty is conspicuous by its absence, for it is swept aside by oppressive laws The government in the hands of a despot is neither responsive nor responsible to the public Laws are passed, not to meet the larger interests of the community, but to facilitate the exercise of unbridled power of a small group consisting of the despot and his friends People have to give unquestioned obedience to the dictator They cannot have civil, economic or political liberty Law does not safeguard the interests of the people, but becomes an instrument of oppression in the hands of the ruler Even if a dictatorship is good, people do not have liberty, for everything is done according to the whims and fancies of the dictator A totalitarian government exercises complete control over all aspects of life of the individual, and leaves no room for liberty Any attempt made to regain liberty, is ruthlessly put down People live in an atmosphere of fear and suspicion

E New Menace to Liberty

The following factors are responsible for the growth of totalitarian trends, if not full and naked totalitarianism in modern times

1 Extension of State Authority for Welfare Though we are assured that democracy safeguards liberty, even in a democratic set-up, in the name of the welfare state, governments all over the world are rapidly extending their powers It sounds paradoxical that in democratic countries totalitarian trends are clearly visible Sardar K M Panikkar in *The State and the Citizen* speaks of the tremendous growth of state power all supposed to be in interests of the individual The result of the state efforts is the loss of the liberty of the individual "It (state) speaks with a million voices on the radio It overhears our conversations on the telephone It pries into our secret thoughts by censoring our letters It controls the water we drink, the food we eat, the lights we use, our modes of transport, and in fact practically everything in our lives It gives with one hand and takes away with the other "[1] In modern times, the individual depends more and more on the state, and the functions and responsibilities of the state are increasing To discharge the numerous obligations, the state passes comprehensive legislation

1 Op cit p 5

giving wider powers to the government The result is the contraction of liberty

2 **Too Many Laws** The passing of too many laws is injurious to individual liberty Too many do's and don't's coming from legislatures, ministers and bureaucrats abridge liberty

3 **Thinking by Government** In some countries—including those wedded to a democratic system—the government does the thinking and tells the people what is good or bad for them, and refuses to respond to public opinion Leaders in these countries profess democratic principles, but deny liberty to the people, whose cause they pretend to uphold When government suppresses public opinion and arrogates to itself the function of thinking and speaking, great damage is done to the cause of liberty

4 **Tyranny of the Majority** Individual liberty is restricted by the tyranny of the majority Tyranny of the majority is possible, when the opposition is weak What people experience in several countries is not democracy but the tyranny of the majority The thinker who first formulated the idea of *a tyranny of the majority* was Alexis de Tocqueville in his book *Democracy in America* "The tyranny which we fear and which Mr De Tocqueville principally dreads is of another kind—a tyranny not over the body, but over the mind "[1] Government based on a *brute* majority will trample upon the liberty of the people unless the people themselves are able to exert their pressure on the government through the press, platform and other agencies of public opinion

MAIN POINTS

1 **Meaning of Liberty** (1) Varied uses of the word liberty Difficult to give precise definition Liberty and freedom generally synonymous Liberty may be defined as the affirmation by an individual or group of his or its own essence '

Liberty needs three factors harmonious balance of personality absence of restraint and organisational opportunities for the exercise of a continuous initiative.

Liberty is free choice each individual s own decision concerning his own course of action it belongs to himself not to the external world that surrounds him (Ramsay Muir) Liberty is freedom from constraint tyranny and slavery

Liberty is u ed to describe various types of individual freedom

(2) Liberty not absolute Unrestrained liberty would mean anarchy

(3) Liberty opposed to political subjection

(4) By liberty the Greeks meant protection of the group from attack and the ambition of the group to realise itself as fully as possible

(5) Liberty understood positively and negatively Positively it means freedom to do something and negatively it means freedom from having to do something

1 E W Martin *The Tyranny of the Majority* (1961) p 9

CHAPTER 21

EQUALITY

Equality came later than liberty In our study, we take liberty and equality side by side The formulation of the doctrine of equality took place in the eighteenth century

A Definition and Meaning of Equality

Understood in Different Ways Equality has several facets, and it cannot be defined or even described at one single glance at it The contents of equality defy clear and precise definition Like liberty, equality is also a great democratic ideal, which has been understood in different ways To some, equality stands for political equality only, and to some it is nothing more than equality before the law There are others, who understand it in the widest sense possible, and desire to bring political equality, social equality, civil equality and economic equality under the general heading of Equality G Sartori correctly points out that equality "has so many facets and so many implications, that after we have examined it from all angles we are left with a feeling of not having really mastered it "[1]

Fundamentally a Levelling Process " The ideal of equality has insisted that men are politically equal, that all citizens are equally entitled to take part in political life, to exercise the franchise, to run for and hold office It has insisted that individuals shall be equal before the law, that when the general law confers rights or imposes duties, these rights and duties shall extend to all, or conversely that the law shall not confer special privileges on particular individuals or groups "[2] Laski says " Undoubtedly it (equality) implies fundamentally a levelling process It means that no man shall be placed in society that he can overreach his neighbour to the extent which constitutes a denial of the latter's

1 *Democratic Theory* (1965) p 326
2 J A Corry *Democratic Government and Politics* (1958) p 33

(6) Liberty necessary for realising potentialities of personality
(7) Liberty implies personal and group responsibility
(8) State to create conditions favourable for the enjoyment of ind liberty

2 **Kinds of Liberty** (1) Natural liberty Unrestrained freedom Rightly understood it stands for freedom given by nature to all and does not mean uncontrolled freedom Stoics in Greece and Roman thinkers spoke of natural law

(2) Civil liberty person s right not to be subject to imprisonment arrest or other physical coercion without legal justification Roosevelt s Four Freedoms Freedom of Speech and Expression Freedom of Religion Freedom from Want and Freedom from Fear Absence of civil liberty in totalitarian states

(3) Political liberty Synonymous with democracy Includes minimum rights like the right to vote the right to stand for election the right to public office the right to express political views and to criticise government

(4) Economic liberty Democracy meaningless without economic liberty Democracy in industry Need to define economic rights of workers.

(5) National liberty Synonymous with complete independence

3 **Safeguarding Liberty** Laski s view Special guarantees to safeguard liberty Absence of special privilege Individual s rights not to depend on anybody s pleasure State action necessary Certain conditions essential for liberty (1) Urge for liberty (2) Democratic government (3) Separation of powers (4) List of fundamental rights (5) Restrictions on powers of legislature (6) Rule of law 7 Public opinion and free press

4 **Sovereignty Law and Liberty** Sovereignty necessary for liberty Good law condition of liberty Balance between sovereignty and liberty Conditions for harmony between law and liberty—sympathy of government effective opposition freedom of the press independent judiciary and vigilance of people.

5 **Modern Danger to Liberty** Certain factors responsible for totalitarian trends even in democratic states (1) Extension of state authority in the name of welfare (2) Too many laws (3) Tyranny of the majority

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citizenship "[1] In modern times, the concept of equality got a free scope to express itself People demanded the same treatment from the state to all and resented any distinction between one individual and another regarding rewards and punishments

Establishment of Social Justice Like liberty, equality is essential for social justice All over the world, there have been movements aiming at social justice, and these have paid particular attention to the achievement of equality The Constitution of India has upheld the principle of equality in the Preamble and in the Fundamental Rights

Connection between Liberty and Equality Equality is closely connected with liberty, for without liberty people cannot have equality, and liberty will be poor in its content without the basis of equality The struggle for liberty could not be fully successful without eliminating the special rights and privileges of the few that is, without removing inequality Political, social, economic and other types of inequality brought about great injustice to millions all over the world When there is inequality, a few people at the top enjoy special privileges and preferential treatment, and the masses of people suffer from handicaps It becomes easy for the former to develop their personality, while obstacles make it difficult for the latter to realise their potentialities fully

Agitation for Equality In the light of the growth of new ideas, which roused people everywhere from their slumber and created a consciousness of their rights, several movements rose to pull down the old structure of society based on injustice and inequality "Throughout the nineteenth century the concept of equality stood in the background of a great variety of social movements and proliferated into an increasing number of fields. A detailed history of its development would touch upon most aspects of modern life "[2] The existence of glaring inequality between the privileged and unprivileged in France made men fight for securing equality The French Revolution broke out owing to various causes one of which was the absence of political, social and economic equality The revolutionaries in France in their National Assembly adopted *The Declaration of the Rights of Man* (1789) according to which "men are born and always continue, free and equal in respect of their rights" In other countries also people agitated for equality and justice

1 *A Grammar of Politics* (1957) p 153
2 *Encylopaedia of the Social Sciences* Vol 5 (1954) p 576

No Equality at Birth All men are not born equal, and absolute equality can never be realised In fact nature has made men unequal, some men are endowed with great intellectual power, some with great physical strength, some with extremely handsome features and some with very rare gifts "Physically some men are three or four times as strong as others, able to perform many times as much work Intellectually the contrast is still greater, as may be realised when we compare an average person with a man like Sir Winston Churchill If intellectual inequality is more marked than physical inequality, moral inequality is still more so The contrast between self-centred and cruel persons on the one hand, and the saints and heroes on the other, is really incalculable"[1] All these account for inequality given by nature All men are not born in the same circumstances, and conditions of birth differ from child to child Human beings are not like standardised commodities coming out of a factory Every individual has his own points of strength and weakness peculiar to his personality No two individuals, even if they are twins, are exactly like each other "Factually men are not equal, and the more specific the investigation, the more apparent it is that men are unequal, unequal in strength, in spirit, in grace, in thought"[2]

Absolute Equality Impossible Absolute equality is neither possible nor desirable In no movement in the history of the world did men lay claim to absolute equality, as it would be ridiculous to do so It will be correct to state that the principle of equality stands for a *levelling process* Equality does not mean uniformity, and difference does not mean inequality Though there are differences between man and man, there is something which is basically common between them "in the sense of possessing beneath the observed differences some more and universal attribute or manhood by virtue of which each should by right—and can with safety—be treated as the equal of every other in reference to certain functions and privileges in society"[3]

Conditions Necessary for Equality Equality prevails in a society in which the following conditions are present viz

(1) All persons are provided with *adequate* (not equal) opportunities for the development of their personalities

1 Elton Trueblood *Declaration of Freedom* (Lectures delivered in 1954) p 73
2 *Encyclopaedia Americana* Vol 10 (1959) p 439
3 Burns and Peltason *Government by the People* (1953) p 35

(2) No class or caste or group is given special privileges which are denied to others

(3) Rights are equally distributed among all

(4) All have equal access to opportunities leading to authority

The struggle for equality in the different parts of the world was necessitated by conditions which unjustly provided opportunities and privileges only for a particular class

Fight for Adequate Opportunities Those who fought for equality did not demand absolutely equal opportunities, but only adequate opportunities and the abolition of special privileges, which enabled a few to exploit the many By equality of rights the democrat does not mean as his critics sometimes imply that all men are equal in talents, virtues and capabilities He does mean that the claim of one individual to his life, liberty and happiness must be treated equally with those of any other individuall"[1]

How Inequality Prevails Opportunities and privileges in a state may be given to a favoured few on the basis of birth, religion, class, caste, wealth, education and race In almost all the countries of the world at some stage of history, these were the passport to the realm of privileges and authority In the *varna vyavastha* in India, there was no equality, as the Brahmans and Kshatriyas enjoyed privileges not within the reach of the other castes There was no equality in France in the days of the Bourbon rulers, as the nobles and the clergy enjoyed special rights, which the common people did not have In Nazi Germany, there was no equality, as Jews were treated as inferior to Germans, who, according to the Nazis belonged to the superior Nordic race In South Africa today there is no equality, as coloured people are not treated on par with the whites

Equality in Democracies In modern democracies like Britain, the USA and India, the principle of equality has been upheld One of the Fundamental Rights according to the Constitution of India is the Right to Equality which includes (1) equality before the law, (2) social equality (3) equality of opportunity, (4) abolition of untouchability, and (5) no titles Legally and constitutionally speaking, in India since the commencement of the Constitution no discrimination can be shown against any individual on the basis of religion, caste creed or language

1 F W Coker *Recent Political Thought* (1957) p 308

French thinkers and jurists following *The Declaration of the Rights of Man* (1789) mentioned four rights under Equality "the right to be treated equally with others, and on the same footing as others, in the eye of the law and in all legislative acts, the right to be treated equally with others in matters of justice and in courts of law, the right to be treated equally with others in matters of taxation so that each man pays the same proportion of his means as is paid by the others, and finally the right to be treated as equally admissible with others to public honours and offices of employment "[1]

England has set a good example in upholding equality " In England the idea of legal equality or of the univer al subjection of all classes to one law administered by the ordinary courts, has been pushed to its utmost limit With us every official, from the Prime Minister down to a constable or a collector of taxes is under the same responsibility for every act done without legal justification as any other citizen "[2]

B Kinds of Equality

Widening Scope of Equality and Difficulty of Analysis There was a time when the concept of equality was interpreted in a narrow way But with the widening horizon of democracy, the concept came to have new dimensions In democratic countries, the concept is understood very broadly, and there equality has gained entrance into many fields

On account of the difficulties of an exact connotation of equality, it is not easily possible to have one method of analysing equality All political thinkers do not classify kinds of equality in the same way

According to Bryce, there are four types of equality viz (1) Civil, (2) Political, (3) Social, and (4) Natural Laski speaks of two kinds viz Political and Economic Barker deals with two types viz Legal and Social

The meaning of each type of equality has to be clearly under stood

1 Ernest Barker *Principles of So ial and Political Theory* (1953) p 280
2 A V Dicey *Introduction to the Study of the Law of the Constitution* (1956) p 193

1 Civil Equality

Same Civil Rights and Liberties to All There is civil equality in a state, when all are subject to the same law (or there is equality before the law) and when law neither confers special privileges on some at the expense of others nor makes any individual suffer owing to his station in society, religious beliefs, political views, race or caste There can be no civil equality, when law makes invidious distinctions between one individual and another on any arbitrary basis Equality confers the same civil rights on all without making any difference between one individual and another Civil equality as a concept was accepted in modern times, when democracy as a form of government came to be regarded as the best. Democracy will be barren, if it does not give liberty and equality to the people People enjoy civil equality, when the same civil rights and liberties are given to all. (See Chapter 19 for Civil Rights and Chapter 20 for Liberty)

2 Political Equality

Same Political Rights to All There is political equality, when all citizens enjoy the same political rights like the right to vote, the right to stand for election, the right to hold public office and the right to criticise government In other words, political rights rise only in a democratic state In India, according to the Constitution, there is political equality All adults have the right to vote and other rights During the British regime, Indians had no political equality, and franchise was restricted to a small minority of the population only

3 Social Equality

No Social Discrimination Social equality exists, when no individual is made to suffer on account of his race, colour, class, caste and creed The Constitution of India does not recognise the invidious caste and other distinctions prevailing in society In fact, it has expressed itself clearly against untouchability All citizens in India enjoy social equality, and there shall be no discrimination against any one on grounds of religion, caste or creed, race, sex and place of birth "Untouchability is abolished and its practice in any form is forbidden The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law" Though the Constitution of India does not countenance social inequality, actually inequality does exist in India at

present Law cannot succeed unless society in general progresses rapidly and imbibes the true democratic spirit It will take some time for the actual (not legal) removal of untouchability and the evil spirit of inequality from the minds of the people in India

4 Natural Equality

Nature's Inequality Though it is said that all men are born free and equal, a little thought will show that this is not true Nature has not given the same gifts to all, and, in fact, she has made men unequal The statement however should be understood in its proper spirit We have to take it that artificial or man-made inequality is resented and equality before the law and adequate opportunities are claimed by all individuals In modern states, which accept the concept of democracy, law treats all in the same way irrespective of the gifts of nature with which some men are endowed or of the disabilities with which nature has handicapped men

5 Economic Equality

Equality to the Margin of Sufficiency In modern times, true democrats speak in terms of economic equality Political, social and civil equality will have little meaning, if the vast masses of people in a country are under great economic disadvantages Wealth is a source of power and prestige, and if it is unjustly distributed and gets concentrated in the hands of a few, political power and social rank will be the monopoly of a few, though the laws of the state may uphold the principle of eqality Wealth provides all kinds of opportunities to those who have it, and the poor are forced to suffer from serious disadvantages A very poor or starving man, having no economic opportunities, has absolutely no use of the concept of equality Therefore, economic equality has to be given an important place in a state H J Laski in his A *Grammar of Politics* underlines the tremendous significance of economic equality "Political equality, therefore, is never real unless it is accompanied by virtual economic equality, political power, otherwise is bound to be the handmaid of economic power"[1]

Economic equality does not demand the equal distribution of wealth it stands for equality to the margin of sufficiency As regards the primary needs of life at least there should be equality, but beyond a certain point, economic inequality may be allowed

1 Op cit p 162

Absolute economic equality is nowhere possible in the world, and it is absurd to claim such a type of equality The principle of economic equality as understood in this sense has been accepted in democratic countries, for economic equality provides a sound basis for other types of equality Economic equality can exist, when all people have reasonable economic opportunities to develop themselves Adequate scope for employment, reasonable wages, adequate leisure and other economic rights create economic equality

Private Property and Inequality The accumulation of private property in few hands led to the increase of inequality Particularly after the Industrial Revolution, this became glaring To fight against economic inequality, Marx and Engels gave the doctrine of socialism In Russia and China, one of the aims of the revolutionaries was the achievement of economic equality Revolutionary socialists *or communists desire to bring all important means of* production under state control and abolish private property However, economic equality has not been achieved even in communist countries

C Liberty and Equality

View that Liberty and Equality Are Antagonistic According to writers like De Tocqueville and Lord Acton, liberty and equality cannot co-exist harmoniously, as they are against each other "To minds so ardent for liberty as Tocqueville and Lord Acton, liberty and equality are antithetic things It is a drastic conclusion But it turns, in the case of both men, upon a misunderstanding of what equality implies "[1] It is argued that the desire to have equality destroys the possibility of having full liberty When the state passes laws to bring about equality, the liberty of some is restricted The liberty to produce and enjoy wealth as one likes is reduced by efforts made to introduce equality The law of the state may pass laws severely restricting private property, and this, it is said, acts as a curb on the liberty of private property-owners

Liberty and Equality Support Each Other The views of Tocqueville and Acton cannot be accepted, as *they have not* given the correct interpretation of liberty Liberty can never mean the freedom to do anything one likes or to earn money through industry and trade without any limitations whatsoever Liberty has to be understood in the social context, and it implies reasonable restraints and responsibility for the good of all Liberty of an

1 H J Laski *A Grammar of Politics* (1957) p 151

individual cannot go against the larger interests of society Unrestrained liberty or licence would allow selfish people to accumulate wealth under the guise of *laissez faire* or free trade This would lead to the destruction of the liberty of a vast majority in society Therefore, the principle of equality should stand side by side with the principle of liberty These two cannot be antagonistic, but should help each other "The paradox is that equality and freedom, which begin by being ideas in conflict and tension, turn out upon analysis, to be necessary to each other The truth is that it is impossible to make a reasonable statement of the meaning of equality except in terms of freedom Men are equal only because all men are intrinsically free, as nothing else in all creation is free "[1]

It is the concept of equality that lays down the foundation of the concept of liberty In a state, in which there is no equality, there can be no scope for liberty It has to be emphasised that (1) if there is no political equality, liberty will be barren, and large sections of the population will have no share in government, (2) if there is no civil equality, those who suffer from civil disabilities will have no liberty, (3) if there is no social equality, liberty will be enjoyed only by the privileged few at the cost of the many, and (4) if there is no economic equality, wealth will get concentrated in the hands of a few, who alone will take advantage of the fruits of liberty, and the vast masses of people will suffer from poverty and degradation

Reconciliation of Liberty and Equality Liberty and equality "are to be reconciled by remembering that both (liberty and equality) are subordinate means to the end of releasing the potentialities of individual personality on the widest possible scale The development of a rich variety of personalities requires a large measure of liberty and forbids all attempts to impose a dead level of social and economic equality "[2] While Massimo Salvadori says that liberty is not the same as equality, he established a connection between the two "There is an intimate connection between the two because all individual liberties are related to the basic equality of all men, and because historically the aspiration for liberty became in practice the destruction of privilege or inequality "[3] Though some value liberty more than equality, it is better to say that they complement each other In a democratic state, the

1 Elton Trueblood *Declaration of Freedom* (Lectures delivered in 1954) p ‹

2 Corry and Abraham *Elements of Democratic Government* (1963) p 34

3 *Liberal Democracy* (1957) p 36

individual needs both, equality without liberty has little value, and without equality liberty cannot have a proper basis "Liberty thus implies equality, liberty and equality are not in conflict nor even separate, but are different facts of the same ideal Indeed since they are identical, there can be no problem of how or to what extent they are or can be related, this is surely the nearest, if not the most satisfactory solution ever devised for a perennial problem in political philosophy"[1]

D Obstacles to Equality

Gap Between Law and Practice In modern times, the concept of equality came to be widely accepted all over the world, and different governments actually gave expression to it through comprehensive legislation or made constitutional provision to protect the principle of equality In states wedded to the principles of democracy, law upholds the principle of equality Legally speaking, equality "means that the state treats all legal persons as equal in its presence or, as we say *in the eye of the law* It will not assign higher and lower grades of legal personality"[2] Legally speaking, the road has been paved to equality, but the big question is whether law alone is enough to realise the principle of equality in the realm of practical affairs True realisation of equality needs the broad-minded spirit of the people, and there should be no gap between what the law says, and what the people are prepared to practise In almost every state, inequality is practised In South Africa and Rhodesia, coloured people are denied equality In the USA, in actual practice, Negroes are treated badly In Pakistan, discrimination is practised against Hindus In India, right to equality is a fundamental right guaranteed by the Constitution (1950) and it is comprehensive in its range, but there is a wide gulf between the constitutional and legal principles on the one hand and the actual practice on the other We find in India today, that is, 23 years since independence and 20 years since the commencement of the Constitution glaring social and economic inequality Untouchability is practised on a large scale In India the Constitution and laws have gone far ahead of the spirit of the people It may take several decades of development to eradicate inequality

Equality an Ideal Outside the legal sphere inequality exists, in social status, in economic resources and so on "How

1 Herbert A Deane *The Political Ideas of Harold J Laski* (1955) p 46
2 Ernest Barker *Principles of Social and Political Theory* (1953) p 140

far the state can tolerate some of this inequality in the social or extra-legal sphere, and more especially how far it can tolerate inequality of economic resources, without offending against its own principle of the equality of legal persons within itself and its own sphere, is a grave question of our times which leads to a clash of conflicting arguments "[1] The champions of democracy loudly proclaim that equality is a great democratic principle, but it has remained an *ideal* only The world has to move nearer and nearer to this ideal Among the ideals given in the Preamble to the Constitution of India, one is "equality of status and of opportunity"

Political, Social and Economic Obstacles There are political, *social and economic obstacles* to equality These are the following

(1) Political power is actually monopolised by a few people, even in democratic countries When political power is practically vested in a few hands through the party system, there cannot be equality Those, who have power enjoy privileges, and this is against the principle of equality

(2) In the social sphere, owing to long-standing traditions, inequality is seen everywhere, and law cannot easily eliminate social inequality

(3) Economic inequality is more glaring than other types of equality, as people enjoying political power and economic advantages are decidedly better placed than those who do not have these advantages

It will take a long time for all countries, particularly the backward or developing countries, to narrow down substantially the gap between the ideal and the real "Current democratic thought views equality as less a fact than an ideal, as a goal to be striven towards (yet never fully achieved) rather than as something actually possessed Democratic policy tends increasingly to seek the removal of barriers to the attainment of equality, but it does not today cling to the delusion that literal equality is either possible or desirable "[2]

MAIN POINTS

1 **Definition and Meaning of Equality** (1) Different meanings Difficult to define *Fundamentally a levelling process Same treatment from the state to all* (2) Equality before the law and same rights and duties (3) Intimate connection between liberty and equality Movements for equality Absolute equality

1 Ibid p 141

2 Rodee Anderson and Christol *Introduction to Political Science* (1957) p 88

impossible (4) Necessary conditions Adequate opportunities no special privi leges equal rights (5) How inequality prevails Influence of caste race etc.

2 **Kinds of Equality** Widening scope of equality Classification difficult (1) Civil equality Same civil rights and liberties (2) Political equality Same political rights to all (3) Social equality No social discrimination (4) Natural equality Nature has made men unequal Artificial inequality disliked (5) Economic equality Equality to the margin of self-sufficiency and not absolute economic equality

3 **Liberty and Equality** Tocqueville and Acton say that liberty and equality are antagonistic Wrong view Both inter-dependent. Reconciliation between the two necessary

4 **Obstacles to Equality** Wide gap between principle and practice. Political social and economic privileges are obstacles to equality

Section VII

THE END AND FUNCTIONS OF THE STATE AND THE SPHERE OF STATE ACTIVITY

CHAPTER 22 THE END AND FUNCTIONS OF THE STATE

The state was organized not for its own sake but for the purpose of meeting the needs of society

A The End or Purpose of the State

Greek Thought of Life Partnership with State The ancient Greek philosophers thought that the state existed for the sake of a partnership of a life of virtue and goodness The Greeks regarded the city-state as an end in itself, and the individual was supposed to enter into a life partnership with the state Conditions in ancient Greece were quite different from those obtaining at present (In modern times, writers like Hegel regarded the state as a super personality, and looked upon it as an end in itself) According to Aristotle, the state was born for the sake of life, and continues for the sake of good life The individual is to realise his

life only through the state In marking out the end of the stat in modern times, we take into consideration the rights of the individual (which include even the right to resist the state and the fundamental rights upon which the state should not encroach).

The Greeks valued liberty very much, but the concept of the right of the individual against the state was alien to Greek political thought Moreover, in ancient Greek city-states all persons were not citizens Women, aliens and slaves were excluded from citizenship. The number of citizens, therefore, was a small minority of the population in a city-state In Greece, liberty and slavery could co-exist But slavery is repugnant to the spirit of the modern state Greek thinkers like Plato and Aristotle upheld and justified the institution of slavery For the citizens they fixed very high ends in their political philosophy Both these great thinkers considered the state as self-sufficient (not economically but ethically), and the end or purpose was a happy and self-sufficing life

Today we regard the state as a legal structure, but the Greeks considered it as an ethical society having a moral end While political science to modern scholars is an inexact social science dealing with the problems of state and government, politics in the hands of the Greeks was an ethics of the whole society In his *Republic*, Plato fixed very high ideals for the rulers or philosopher kings or guardians of the Republic He underlined the importance of the superiority of virtue and the good and happiness of the community The high aims of the state, according to Plato could be realised through the rule of the philosopher-king Aristotle dealt with the true ends of the state and the false ends Normal forms of government worked for the true end, while the perverted ones for the false

Roman View The Romans were practical-minded conquerors, law-givers and statesmen They did not regard the state as self sufficient, and never spoke in terms of entering into a life partnership with the state Though Rome was originally a city-state, she in course of time became the mistress of a mighty empire, and hence had a wider scope to rule and evolve political principles than what the proudest city-state (of Athens) of Greece could have

Medieval View In the middle ages, the Christian writers had implicit faith in the church, and could not think objectively about the true end of the state Many writers regarded the medieval s a as an instrument to safeguard the interests of the church The ecclesiastical writers looked at the state through the religious and

Difference Between Society and State In understanding the purpose of the state in modern times, it has to be noted that society and state are not the same Society, represents a large and complex net-work of relationships, whereas the state, the highest form of association is a *politically* organised society in a given territory In society, besides the state there are many associations, but the state alone exercises sovereignty

State Means to an End In spite of the paramount importance given to the (sovereign) state, we cannot regard it as an end in itself, but only as a means to an end The state exists for the sake of human beings and not *vice versa*, it is an agent or instrument of human beings living in society Just as the individual's rights in a state are subject to reasonable restraints, the state also cannot go beyond a certain limit in exercising its powers Only the advocates of totalitarianism and those who say that the state is an end in itself accept the view that the state can do whatever it likes, and there can be no restrictions on its authority If the state is made omnipotent, it will also mean that the men who form the government will exercise power without any restraints A state acting through the government should not deal with all human activities but only with a part If we make no distinction between state and society, and give unqualified powers to the state to deal with all human relationships and all human activities, the individual will lose all his liberty It is of utmost importance, therefore, to draw a clear line of distinction between state and society (See Chapter 4 on the State and its Nature)

From Police State to Welfare State There was a time when rulers not having broad-minded and enlightened aims regarded the state as their private property, meant only for exploitation and enjoyment, and never thought in terms of promoting the welfare of the people But they expected the people to obey their laws fully For a long time, states limited their functions to a narrow sphere, and did not do much beyond giving protection to the people

In the nineteenth century, the concept of the police state was discredited and thrown overboard, and the concept of social welfare started gaining ground The utilitarians spoke in terms of the state promoting the greatest happiness of the greatest number (In the same century, individualists said that the aim of the state was only to maintain law and order) With the rise of

ideas, the concept of the welfare state received further impetus The state is to be regarded as an agency of service and not as an agency of power Power has to be employed for upholding law and order, maintaining justice, and promoting the happiness of the people "The great expansion in recent times of functions of general welfare is tending more than anything else to foster new conceptions of the nature of the state It puts government into more familiar and more co operative relations with the ordinary man "[1] If the state makes the wrong use of its power, the very purpose of its existence will be defeated

B The Functions of the State

1 Meaning of Functions

Let us briefly examine the meaning of functions

Sense of Purpose and Sense of Particular Mode of Action According to Ernest Barker, the word *function* can be understood in two senses[2] (1) the sense of purpose or aim, and (2) the sense of a particular mode of action In the first sense, we speak of the state in general terms of "the maintenance of a scheme of law or the service of rights or some other such aim " In the second sense, we speak of "a special kind of activity, by means of which a government seeks to fulfil its general purpose and from th point of view we *speak of* the legislative, *judicial* or executiv function "

Promotion of Happiness The functions of the state shoul be directed towards the realisation of human happiness in the ultimate analysis, but it is difficult to say what precisely consti tutes happiness Edward J Urwick in his book *The Social Good* (1927) says "that for us human beings, at any rate, the Good is happiness "[3] He mentions five essentials of happiness

(1) "Work–if possible congenial work but in any case work'
(2) "Strong interests, and opportunity to develop such inte ests'
(3) "The companionship of the people whom we like and who like us and therefore, constant reciprocity of service"
(4) "An ideal to live for in ourselves, if not outside also"
(5) "Immunity from severe physical hindrances"

Each one of these principles is of paramount significance to the development of the individual's personality and the promotion

1 R M Mac Iver *The Web of Government* (1959) p 340
2 *Principles of Social and Political Theory* (1953) p 255
3 Op cit pp 10 & 14

of his happiness If the state enables the individual to realise his good or happiness, obedience to the state will be worth his while, and it is bound to be spontaneous and never reluctant

Functions and Rights The functions or obligations of government are intimately connected with the rights of the individual The individual cannot have rights, if government fails to discharge its functions properly "Functions of government cannot be separated from rights of persons, except in the sense in which the reverse of a coin can be distinguished from the obverse"[1] A government is supposed to render service to the community in upholding the rights of its members "All authority and all functions of government, including the functions of immediate sovereignty are services owed to rights"[2]

Respecting Personality In trying to make the individual happy, the state should not side-track the personality of the individual as a negligible quantity which can be overlooked The state should uphold the dignity of the human personality and provide the widest scope for its development The state exists for the sake of the individual and the individual's personality is not to be destroyed under any pretext "To establish order and to respect personality—these are the essential tasks positive and negative of the state and if we can follow out their implications we shall discover aright both its sphere and its limits"[3]

No Hard and Fast Rules Regarding Functions No hard and fast rules regarding functions can be laid down for the guidance of all states Every state has its own problems, and hence the details and scope of the functions differ from state to state Some states are very ambitious, and they go far in promoting the well-being of the people In advanced states very high standards have been reached owing to the advantages they enjoy Ample economic resources, the sense of service animating the government personnel, the vigilance of the people, the high civic sense and political consciousness of the people the wholesome part of national political parties and the generation of healthy public opinion in favour of the general good can be regarded as factors, which are favourable to the state On the other hand there are states, in which there is little enthusiasm both in the government and the people in the performance of functions It is the people, who make the state

1 Ernest Barker *Principles of Social and Political Theory* (1951) p 226
2 Ibid p 223
3 MacIver *The Modern State* (1950), p 1[illegible]

and if the people are not interested to have a good government, which attends to its functions, there is little scope for progress One has to turn to the great democracies of the West, particularly, England and the USA to know the high spirit of the people and the government in the performance of functions In these countries, if the governments are slack and indifferent, the people will goad them to do their duties in attending to the general welfare of the community

2 Kinds of Functions

Broadly speaking, the functions of the state can be brought under two categories (a) Protective or Police functions, and (b) Welfare functions

(a) Protective or Police Functions The most essential functions of the state are called protective or police functions. These are the following

1 **Upholding Sovereignty** The primary function of the state is to uphold its own sovereignty, that is, its own essence The state should protect the individual's life and property, and save him from internal disorder and external aggression

2 **Making Laws** The state has to make laws for upholding sovereignty and enforcing obedience It has to uphold law and order, and create conditions of perfect security There was a time, when several states could not even do this In the later days of the Roman Empire and in the days of the puppet Mughal Emperors in India, it was not possible to give full protection to life and property The state has to maintain in modern times well-trained armies, navies, air forces and police forces to meet the requirements of law and order

3 **Giving Justice** The state should also administer impartial justice through a competent and independent judiciary It should regulate the conduct of the individual in the interests of all Those who violate law should be punished

4 **Upholding Institutions** The state should uphold institutions like the family and make laws pertaining to property, marriage, divorce, inheritance and other matters It has also to regulate contracts

5 **Organizing Transport and Communications** The state should organize adequate means of transport and communication Building of roads and maintaining them in good condition and running an efficient postal system are also essential functions

6 Regulating Markets The state should regulate markets and inspect weights and measures Many such functions are put in charge of local self-governing institutions, over which government exercises distant supervision

7 Maintaining Foreign Relations Another important protective function is to maintain diplomatic relations with foreign countries

Besides these, there are several other functions, which can be regarded as protective or police In ancient and medieval times, some states were not doing full justice even to these primary functions These states were keen only in collecting taxes and keeping the people in subjection with the help of the army and the police

(b) Welfare Functions It has been realised everywhere in the modern world that the state has to go far beyond the performance of the protective or police functions No modern state regards itself as a mere tax-gathering organisation There is great emphasis these days on the need to promote social welfare While the principle of the welfare state has been accepted all over the world, all states have not progressed equally India has, according to the Constitution (1950), accepted the concept of the Welfare State, and the Directive Principles of State Policy in India lay very great emphasis on the welfare activities of the state But India, owing to many difficult problems, lags far behind the highly advanced countries of the West in providing social services Many countries in the world had an unfortunate history, which put them on a lower level than that of the Western countries

The following are the welfare functions of the state

1 Creating Conditions for Development of Personality The state should create favourable conditions, which enable the individual to develop his personality to the highest possible level It should treat all individuals in the same manner, and provide adequate opportunities to all as regards education and employment All individuals should be provided with the same rights, and there should be equality before the law No class or caste should be given any special rights or privileges at the expense of the rest of the community The state should particularly protect the interest of the weaker sections of the community, which badly need its protection

2 **Protection of Health** The state should take preventive and curative steps to protect the health of the people Gone are the days, when the state ignored this important responsibility The importance of the health of the people in a state can be hardly exaggerated Only strong and healthy people can build a strong and great nation Health ministries in advanced countries are spending large sums of money on hospitals, and much is being spent on research Adequate steps are taken to safeguard the health of the people, and to prevent the outbreakof epidemics Legislation is passed to prevent the exploitation of workers, to regulate the hours of their work, and to improve their general conditions

3 **Spreading Education** The state owes a duty to the people to provide adequate facilities for education Education must be put within the reach of all There was a time, when facilities of education formed the exclusive monopoly of a privileged few, and the children of the poor hardly got any chance to learn The unprivileged people could not develop a healthy personality, and their moral and intellectual growth was badly stunted The progress in a state depends much on education, which alone will make the people enlightened and fit to have a democratic form of govern ment While it will not be feasible to give higher education to all in a state, it should be possible for a state to provide at least free and compulsory primary education Unfortunately, there are several states, whose resources are so poor that even compulsory primary education is like a luxury to them

4 **Improving Economic Conditions** Any talk about a welfare state will be meaningless if the state does not improve the economic conditions of the people In many countries of the world, parti cularly those in Asia and Africa, there is misery, and a wide gap exists between the rich and the poor The standard of *living* is extremely low It need hardly be said that in such countries, the state should undertake the full responsibility of improving agriculture and industry, and of providing full employment to the people ' Full employment does not mean literally no unemployment—full employment means that unemployment is reduced to short intervals of standing by with the certainty that very soon one will be wanted in a new job that is within one s powers "[1]

1 William Beveridge quoted in W Ebenstein *Modern Political Thought* (1960) pp 681-2

Social Services Western countries particularly have set a good example in providing various kinds of social services France and Prussia took the lead in Europe in providing state-controlled education In England, a national compulsory unemployment insurance scheme was introduced in 1911, and similar schemes were adopted in most of the other European countries

A great landmark in the history o social services in the world was the Beveridge Plan, which was prepared by Lord William Beveridge in England and released in 1942 "The Beveridge Report on Social Insurance issued in 1942 is one of the great social documents of our time" The plan envisaged the following

(1) Unemployment and disability (sickness) benefits,
(2) Retirement Pension,
(3) Maternity benefit,
(4) Dependent allowances,
(5) Industrial Pension,
(6) Marriage Dowry, and
(7) Adult funeral grant

The total cost of implementing the Plan was on the basis of the 1942-price level approximately £ 700 million The British Government prompted by the Tories rejected the Plan as too expensive, and had its own plan of social services

In France also the importance of social welfare has been stressed The Preamble to the French Constitution (1946) says "The nation shall guarantee to all, and particularly to the child, the mother, and the aged worker protection of health, material security, rest and leisure"

In Italy too the government is charged with the duty of promoting social welfare According to Article 38 of the Italian Constitution (1947), "every citizen unable to work and deprived of the means necessary to live has the right to support and to social assistance"

The administration of President F D Roosevelt in the USA which introduced the *New Deal* accepted the responsibility of the federal government to promote human welfare all over the country

The USSR also has done much to promote social welfare "The Soviet Union has prided itself on vigorous interest in public welfare enterprises of one kind or another The outside world

has heard more of the OGPU than of efforts to improve health, of housing, educational facilities, charitable assistance, and similar enterprises, and is inclined to judge the Soviet regime by the reputation of the former rather than by the achievements in the latter fields "[1]

In the Scandinavian countries too, there are social welfare schemes

C The Welfare State

Let us briefly examine the meaning and significance of welfare state

Meaning and Importance The political scientist faces the same difficulty in giving an agreed definition of the welfare state as he finds in defining terms like *nation*, *liberty* and *equality* Several writers have attempted to give a definition The welfare state is one, which is wedded to the principle of promoting the general happiness and welfare of the people It regards itself more as an agency of social service than as an instrument of power It draws up all types of plans according to its resources and the genius of the people

G D H Cole says "The welfare state is a society in which an assured minimum standard of living and opportunity becomes the possession of every citizen "[2] According to Arthur Schlesinger, "the welfare state is a system wherein government agrees to underwrite certain levels of employment income, education medical aid, social security, and housing for all its citizens "[3] In the words of Herbert H Lehman, "the welfare state is simply a state in which people are free to develop their individual capacities, to receive just awards for their talents, and to engage in the pursuit of happiness, unburdened by fear of actual hunger, actual homelessness or oppression by reason of race, creed or colour "[4]

Certain writers are against the use of the term 'welfare', and they prefer the term 'service' "I say service state rather than welfare state The term 'welfare state' seems to me a boast "[5]

The concept of the welfare state is of tremendous significance all over the world Even backward or developing countries of the

1 Ogg and Zink *Modern Foreign Governments* (1957) pp 893–94
2 Quoted in Herbert L Marx (Ed) *The Welfare State* (1950) p 9
3 Ibid p 10
4 Ibid p 9
5 Ibid p 9

world think in terms of welfare state " it would be a tragic error to look upon this philosophy of the welfare state as a luxury, prerogative, or monopoly of advanced western nations Arnold J Toynbee, the most influential historian of our time, argues in *Not the Age of Atoms but of Welfare of All* (1951) that three centuries from now the twentieth century will be remembered not for its wars, horrors and crimes but for the fact that it is the first era in history in *which people dared to think it practicable to make the benefits of civilisation available for the whole human race*"[1]

Features of Welfare State The following features of the welfare state may be noted

(1) The state goes far beyond the frontiers of functions like collecting taxes and maintaining peace and order with the aim of promoting the interests of society

(2) The state undertakes the responsibility of bringing about the material welfare of the people

(3) The state itself takes the initiative in protecting the health of the people and in promoting their economic security and welfare

(4) The state takes steps to abolish illiteracy, poverty and unemployment It establishes schools, hospitals and other institutions to meet the needs of the people It provides unemployment relief, maternity benefit, old age pension and other social benefits

(5) It upholds the rights of all without showing discrimination against any individual or group of people It respects the dignity of the human personality and does justice to all

(6) The welfare state does not leave the poor and the weak to shift for themselves it goes to their rescue and tries to provide them with adequate opportunities *to develop themselves*

(7) The state regulates the economic and other activities of the people in the larger interests of society, and does not allow a particular class to exploit the other classes

India a Welfare State The Constitution of India aims at the establishment of a welfare state The Union and State Governments are expected to direct their efforts to achieve this objective The realisation of the welfare state as the goal of India has been specifically mentioned in the Directive Principles of State Policy "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall pervade all insti-

1 W Ebenstein *Modern Political Thought* (1960), pp 679-80

tutions of the national life" (Art 38 of the Constitution of India) The state should exert itself to bring about social, economic and political justice It is also refreshing to note that the Constitution speaks in terms of the abolition of forced labour, untouchability and communalism It also lays emphasis on the spread of education, equality of opportunity, equality before the law, toleration and brotherhood The Preamble to the Constitution of India bears testimony to the grand aim of the Constitution "to secure to all citizens Justice, social, economic and political, Liberty of thought, expression, belief, faith and worship, Equality of status and of opportunity, and to promote Fraternity assuring the dignity of the individual and the unity of the nation"

Since independence (1947), and particularly after the commencement of the Constitution (1950), Parliament and the various State Legislatures passed many laws for promoting the welfare and happiness of the people The government is guided by the principles of a socialistic pattern of society, and socialism is to march hand in hand with democracy Three Five Year plans have been implemented, and the standard of living has been raised Steps have been taken to increase the production of wealth by encouraging various types of industries so also concerted efforts have been made to step up agricultural production Panchayati Raj has been organized almost everywhere in India, and democracy has been taken to the grass-root level Steps have been taken to increase opportunities of employment The real income of the people in India today is more than the real income two decades ago

D Planning in the Modern State

It is necessary here to make a reference to planning in the modern state

Failure of Capitalism and Need to Plan In many states ambitious plans have been made to promote the welfare of the people Enlightened governments have given up obsolete economic ideas, and they are now following new economic principles to give social and economic justice After the Industrial Revolution the capitalistic system brought much suffering and frustration to the people H N Brailsford in his *Property or Peace* (1934) points out the inherent defect in the capitalist system, which did no work in the interest of the people To save people from selfish grabbing and exploiting industrial capitalism and to do justice to the individual, the state had to undertake planning 'We must seek order through conscious organisation and deliberate planning ..It

(capitalist civilisation) has, however, solved none of its major problems, economic or political and the expedients to which it has resorted—national self-sufficiency, the limitation of social expenditure, and the artificial restriction of the supply of the primary materials and foods, can only reduce the general standard of life"[1] Another great writer G D H Cole has explained why planning is necessary "Because, as matters stand, our physical power to produce goods has outrun our ability to provide for their consumption, and the result is seen in widespread unemployment, suffering, and bodily and mental deterioration of our people Because it is ludicrous that man should starve in the midst of the potential, or even of actual abundance, or that, if they are not left actually to starve, we should prefer keeping them alive on doles to setting them to useful work"[2] However, there are thinkers, who are against planning They are in favour of free enterprise, and are against state control and regulation Friedrich A Hayek, the author of *The Road to Serfdom* (1944) and Walter Lippmann, the author of *The Good Society* can be cited as conspicuous examples Lippmann points out "Not only it is impossible for the people to control the plan, but what is more, the planners must control the people They must be despots who tolerate no effective challenge to their authority"[3] The gist of what these authors say is that planning restricts the liberty of the individual and introduces statism

Economic and Regulatory Functions of State Necessary In spite of what the critics of planning point out, the state has to take a deep interest in modern times to meet the various and ever increasing needs of the people It cannot and in fact should not leave the people to their fate, but should undertake various kinds of economic and regulatory functions on a large scale The challenge of modern times cannot be met by the individual, if he is left alone Planning has a purpose behind it it is a means to an end and not an end in itself Planning in countries like England clearly reveals that democratic planning is capable of bettering the standard of living of the people without destroying the freedom of the individual Almost every modern state has understood the significance or rather the indispensability of planning on a large scale We find in certain countries the masses of people are steeped in

1 Op cit p 101
2 *Principles of Economic Planning* (1935) p 1
3 See W Ebenstein *Modern Political Thought* (1960) p 655

abject penury, degradation, illiteracy and ignorance The means of production that really count are in the hands of a few, who exploit the poor ruthlessly and vulgarly without the least regard for the larger interests of the community The state, therefore, has to exercise some control and regulate economic and other activities In every country, there is a strong desire to raise the standard of living in this century The two World Wars brought terrible misery to millions of people all over the world including areas in which actual fighting did not take place Planning was absolutely essential for tackling the problems which rose in the wake of the global wars

Definition and Meaning of Planning The meaning of planning has to be understood Planning is done by government with the advice of experts in the field The resources to be allotted, the distribution of resources between agriculture and industry and between the private sector and the public sector, the various targets, methods of control and several other matters are decided by government "Planning in practice means drawing up of preferences by experts, and their imposition on the people who do not actively participate in plan activities at any stage Moreover, plans are carried out through social legislation which necessarily implies coercion"[1] Another writer says "In common parlance planning means any form of behaviour governed by conscious expectation Planning sometimes denotes any programme of action according to a prearranged pattern, such as Colombo Plan or Marshall Plan In economics the word planning has, however, acquired a special connotation namely that of substituting the spontaneous market forces by deliberate action and central control over the process of decision-making in the creation and allocation of resources "[2] Planning can be found in almost all states though the principles of planning may vary from state to state Planning implies large scale activities and controls of government in the economic field "Economic planning consists in the extension of the functions of public authorities to the organisation and utilisation of the economic resources Planning is often defined as *rational* centralised control of the economy, other writers define it as *social* or *political* control. These definitions do not exclude each order, but are to a certain extent complementary "[3]

1 S Ghosh *International Political Science Round Table* Bombay (Jan 1954)
2 Dasgupta Sen & Sengupta *Planning and the Plans* (1961) p 1
3 Ferdynand Zweig *The Planning of the Free Societies* (1962) pp 17-18

Objectives of Planning Planning is done with the following objectives

(1) to improve the general welfare of the people,

(2) to provide full and adequate employment to the people, the objective may not be fully realised, though full employment is fixed as the traget

(3) to provide economic security and do economic justice to the people,

(4) to bring about social and other types of equality, and

(5) to bring the backward areas in a country on a level with other areas

It is not enough if plans are made, they should be actually implemented, and this is not an easy task "Planning is a continuous process which necessitates incessant review of scientific application and constant re-examination of economic, financial, social and other policies and programmes of the Government "[1]

Conditions of Success The following conditions are necessary for the success of any plan in a state

(1) Proper study of the resources of the country should be made on a scientific basis

(2) The targets of plans must be realistic and not utopian

(3) There should be competent personnel

(4) The government should be honest in its efforts and it should take people in its confidence

(5) People should be kept informed about the plans, and they should be public spirited They should remember that plans are for them

(6) The implementation of plans must be properly supervised

(7) Government should see to it that corrupt men do not take undue advantage of plans by virtue of their rank and prestige in society

Failure of Laissez Faire Though it can be said in favour of *laissez faire* or free trade that production was stepped up owing to the impetus given by it, time has shown that it has been unable to meet the needs of the individual and society in general In fact after a certain stage, *laissez faire* worked havoc, and it had to be given up No state today is prepared to stand fully in support of the *laissez faire* principles, as it does not serve the needs of modern society (See Chapter 24 on Individualism,)

1 V Vithal Babu *Towards Planning* (1950) p 19

Laissez faire led to the concentration of wealth in the hands of a few, wide disparity between the *haves* and the *have-nots*, the degradation of the poor, class conflict and the wastage of resources

Most of the writers think that state interference is necessary for the common good, though they are against tatalitarian control Several thinkers are of the opinion that the best antidote to the ills of modern times is nationalisation of the important means of production The advocates of nationalisation point out that in the capitalist system the production and distribution of wealth are in the hands of a few, and obviously production never caters to the needs of the people Under capitalism, production is unplanned, there is excessive competition with all its evil corollories Capitalists are guided by the profit motive, which is upheld even at the cost of the community What needs to be produced is either never produced or not produced to the requisite level, and there is an enormous wastage of resources and talents Under nationalisation, the state not only brings under its control public utility services like railways, motor transport, posts and telegraphs, but also all important means of production The principle of nationalisation has been accepted in many countries, though all the means of production are not nationalised in every state

Types of Planning Planning can be brought under the following four categories[1]

(1) Central Planning under *socialism* (Russia and China),

(2) Guided Capitalism and dynamic competition (Post-war America and Germany since the War),

(3) Planned Capitalism (France and Britain),

(4) Mixed Economy or the synthetic approach as adopted by India

There have been plans in totalitarian states and so too in democratic states The totalitarian state of Nazi Germany had Four Year Plans and Stalin's Russia had Five Year Plans, India, a democratic country has Five Year Plans

Whether Planning is Against Democracy Every plan implies some kind of regulation or control, and to that extent, liberty is bound to be restricted Yet it is paradoxical that this restriction of liberty is for the good of all, and it makes way for greater liberty It must be noted that planning aims at social and economic equality and the principle of equality is not antagonistic to

1 D V P Gupta Ibid

liberty In fact, if liberty is to be richer in content, equality is necessary

F A Hayek is of the opinion that planning and democracy cannot live together, as one is against the other Planning, it is argued, weakens democracy by increasing state control "Our point, however, is not that dictatorship must inevitably extirpate freedom but rather that planning leads to dictatorship because dictatorship is the most effective instrument of coercion and the enforcement of ideals and as such essential if central planning on a large scale is to be possible The clash between planning and democracy arises simply from the fact that the latter is an obstacle to the suppression of freedom which the direction of economic activity requires"[1] It is true that planning in a totalitarian state becomes easy, and plans can be implemented quicker than in democratic states, as the individual has no right to criticise the state The individual is never consulted or taken into confidence by the totalitarian state He has to subject himself to the coercion of the state without resisting or questioning it While full employment is difficult to be realised in a democratic state, matters are comparatively easier in a totalitarian state ' Full employment in a totalitarian state is relatively simple, because the state forces people to work for low wages and under oppressive working conditions What Beveridge seeks to achieve with his proposals is full employment in a free society"[2]

The shining examples of countries like Britain show that planning need not necessarily imply loss of freedom Barbara Wootton does no agree with Prof Hayek, who says that planning leads to serfdom Planning need not and has not led to destruction of liberty everywhere Democracies have planned successfully without destroying liberty "Planning need not even be the death warrant of all private enterprise and it is certainly not the passport of political dictatorship A happy and fruitful marriage between freedom and planning can be arranged success or failure turns on the behaviour of the actual men and women who have the responsibility of planning"[3] Planning no doubt, implies some coercion, control and regulation, but it does not lead to the destruction of liberty Planning is in the best interests of all, and it is conducive to the growth of liberty and equality "Hayek's

1 *The Road to Serfdom* (1964) 178

2 W Ebenstein *Modern Political Thought* (1960) p 676

3 Barbara Wootton *Freedom under Planning* (1945) pp 139-40

contention that planning leads to dictatorship is not tenable. Planning would lead to economic betterment and even distribution of wealth and income Thus planning is not only compatible with democracy but essential for the very survival of democracy"[1]

Planning in India India is also planning for a better standard of living, she completed Three Five Year Plans and the Fourth Five Year Plan is going on India has accepted the concept of a socialistic pattern of society within a democratic framework (See Chapter 26 for Democratic Socialism in India) Even the worst critic of planning in India cannot deny the rise in the standard of living, as a result of democratic planning

E Limits of State Control

Here, we may make a brief reference to limits of state control

Different Views The state exercises sovereignty internally and externally To what extent can a state control the life of the individual? This question cannot be answered very easily Different schools of thought have given answers For instance, the individualists or the champions of the *laissez faire* theory desire the state to exercise the least control over the individual's activities The idealists, particularly of extreme views, are prepared to give unlimited power to the state, which they regard as a march of God on earth On the other hand, the anarchists regard the state as an evil, and desire to abolish it unceremoniously The views of the various schools are explained in the forthcoming chapters

Matters Outside State Control People, who desire that the state should give respect to the dignity of the human personality speak in terms of imposing certain minimum restrictions on the state They favour a democratic type of government, which cannot go beyond a certain limit

The state should refrain from exercising control over the following

1 Customs The state should not try to control the customs of the people, for if this is done, people will lose their liberty Customs are in the blood and marrow of the bones of the people, and the state should not try to impose its will on the people against the observation of various customs However, the state can pass legislation to abolish obnoxious customs, which are harmful to the general interests of society Customs like offering

1 S P Saha *International Political Science Association Round Table* Bombay (January 1964)

human sacrifices, having trial by ordeal, killing infants or female children celebrating child-marriages and practising *sati* should be suppressed by the state Customs should be respected and left untouched, provided they do not harm society, and are in fact helpful in the enforcement of law Suppressing good customs is as harmful as tolerating the continuation of evil customs, for the laws of a state depend much on customs "Custom when attacked, attacks law in turn, attacks not only the particular law, which opposes it, but what is more vital, the spirit of law-abidingness, the unity of the general will the main body of social customs beyond the range of law and is neither made nor unmade by the state"[1]

2 **Religion** The state should not interfere with the religious beliefs of the people The state should not uphold any particular religion or go against any religion It should give the people perfect religious toleration provided no religion in the state is harmful to any section of the population While the state should protect religious beliefs, it should not hesitate to suppress those, which are harmful to the larger interests of the state Every democratic state in modern times upholds religious freedom, which is of recent growth Religion should not be a bar or a qualification to citizenship in a state Religion should be left to the individual himself and no control should be imposed on religious affairs India is a secular state, and freedom of religion is one of the fundamental rights

3 **Culture** Similarly, the culture of the people also should be beyond the control of the state People evolve certain customs, usages, traditions, modes of dress religious beliefs, philosophical ideas, food-habits and spiritual values, which can be regarded as their culture or way of living In a state all the people may not have the same culture The culture of the minority groups may be quite different from that of the majority All people should enjoy full cultural freedom, and government should protect the cultural rights of minorities In India, cultural and educational rights have a place in the list of fundamental rights

4 **Morality** Though law is connected with morality, the state should not try to impose morality on the people The state can, however try to create conditions, which are conducive to the moral growth of the community Mac Iver in *The Modern*

1 Mac Iver *The Modern State* (1960) p 161

State points out that the state should not try to pass law on morals "The inner sanction of morality should never be confused with that of political law We obey the law not necessarily because we think it right to obey the law Morality is always individual and always in relation to the whole presented situation of which the political fact is never more than an aspect"[1]

5 **Public Opinion** The state should not try to control or suppress public opinion In totalitarian states, people do not have rights as in a democratic state, and public opinion is not respected On the other hand, in a democracy, government is responsive to public opinion In democracies, freedom of thought, expression and writing is one of the fundamental rights Without this, democracy will have no substance Democracy is sometimes regarded as government by public opinion It is the public which knows objectively how the country is being governed, and so the people should be given freedom to express themselves through various agencies of public opinion The state "should not seek to control opinion, no matter what the opinion may be"[2] except incitement to break law and to develop defamatory opinion

6 **Art and Literature** The state should not exercise control over art and literature While governments are justified in regulating the activities of educational institutions, they should refrain from exercising control over the minds of artists and writers If a government lays down rules and regulatious to make artists and writers government-minded, it will spell the ruin of true art and literature, and artists will find no free scope for their creative talents Immoral and unwholesome trends in art and literature may be watched and proper action taken by government but merely suppressing them because they are not pro-government, will be fatal to art and literature

MAIN POINTS

1 **End or Purpose of State** Greek thought of life partnership with state partnership of virtue and happiness Romans did not agree with Greek view I the medieval period state viewed through religious angle Difference between state and society should be known State only a means to an end and not an end in itself Transition from police stat to welfare state

2 **Functions of State** Realisation of human happiness Connection between functions and rights No hard and fast rule regarding functions There are two types of functions (1) Protective and (2) Welfare Protective functions are up

1 Op cit pp 154-156
2 Ibid p 150

holding sovereignty, making laws giving justice protecting institutions organizing transport and communications regulating markets and maintaining foreign relations Welfare functions are creating conditions for development of personality protecting health spreading education improving economic conditions

3 **Welfare State** Need of minimum standard of living and opportunity Certain minimum levels of employment income education medical aid social security and housing A welfare state goes far beyond the duty of just maintaining law and order India a welfare state

4 **Planning in Modern State** Failure of capitalism and need to plan. Economic and regulatory functions of state necessary Planning necessary particularly to solve problems created by World Wars Failure of *laissez faire* and need to regulate economic activities Types of planning Planning in democratic and totalitarian states Planning restricts freedom to some extent but in the final analysis it increases freedom

5 **Limits of State Control** Different views regarding state control Certain matters should be outside state control viz customs religion culture morality public opinion and art and literature

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CHAPTER 23

THE IDEALIST THEORY OF THE STATE

While discussing the functions and sphere of the activities of the state, various theories have to be examined

A Theories of State Activity

Idealism, Individualism, Utilitarianism, Socialism, Communism, Nazism, Fascism and Anarchism The theories explaining the sphere of state activity are the following

(1) the Idealistic Theory,

(2) the Theory of Individualism,

(3) the Utilitarian Theory,

(4) the Theories of Democratic Socialism and Revolutionary Socialism or Communism,

(5) the Fascist Doctrine,

(6) the Nazi Theory, and

(7) the Anarchist Theory

Each theory explains the area over which the state can conduct its activities The exponents of these theories gave their ideas according to their own mental attitude, conditioned by the forces of history or the environmental influences In certain cases, there is a world of difference between two theories For instance, the idealist theory of Hegel is prepared to give unlimited power to the state, and the individual is a negligible quantity But the theory of individualism gives much freedom to the individual, and provides very little area for the activities of the state The anarchists do not want the state at all In modern times it is being increasingly admitted that the state cannot be a mere passive onlooker, but has to regulate human activity for the good of the community

Each theory tries in its own way to explain the position of the individual in relation to the state

B The Idealist Theory of the State

Different Names The Idealist Theory is one of the theories dealing with the sphere of state activity, and explaining the relation ship between the individual and the state The theory is called Idealistic, as it tries to establish a link between the state and high ideals or principles, it lays great stress on the ought-to-be aspect of the state rather than on ideals based on realities The exponents of idealism do not look at the state as it is with all its frailties, but as it should be as an ideal institution In the nineteenth century, great writers upheld the idealist political doctrine 'The idealist political doctrine is founded in ethics and is a reaction against the naturalistic, utilitarian realism of the individualist—against the sort of theoretical analysis that estimates human welfare in terms of material, tangible comforts and satisfactions and maintains that the nature of the state or of a man can be fully apprehended through a study exclusively of outward, concrete facts'[1]

The theory has other names also It is called Absolute Theory by some, because it gives absolute power to the state it is named Philosophical or Metaphysical Theory, as its exponents speak about the state in philosophical terms Mac Iver, an unsympathetic critic, regards it as the Mystical Theory The theory is also called Ethical, as it regards the state as an ethical institution

Several thinkers like Plato and Aristotle in ancient times and Rousseau, Kant, Hegel, Green, Bradley and Bosanquet in modern times supported the idealist view of the state

Moderate and Extreme Idealism Idealism is of two types moderate and extreme Hegel's idealism is extreme, while that of Green is moderate The extreme idealists regard the state as a super-personality, which can never act unrepresentatively, accord ing to them the state is an end in itself, and it is infallible and omnipotent But the moderate idealists consider the state as a natural association of men, which has an organic nature, the individual is to regard the state as his best friend, for without it he cannot reach his full stature Moderate idealists do not give unlimited power to the state

New Idealism The moderate idealism of T H Green, F H Bradley and Bernard Bosanquet has to be distinguished from that of Kant, Fichte and Hegel The former is called New Idealism

1 F W Coker *Recent Political Thought* (1957) p 415

The new idealism of Green and others is based on the doctrines of thinkers like Kant

C The Origin of Idealism

We may briefly trace the growth of idealism

Ethical Approach of Plato and Aristotle It is generally believed that the origin of the idealist theory can be traced to the philosophy of Plato and Aristotle, the greatest political thinkers in ancient Greece Greek philosophers, who aimed at high ideals considered the true state as a *partnership in a life of virtue* Plato gives the picture of the ideal state in his work *The Republic* or *Concerning Justice* In the *Republic*, Plato answers the questions What is a good man and how is he made good ? What is a good state and how does it become good ? What is the absolute knowledge which the rulers must have ? In what way can the state lead its citizens towards the ultimate good ? Plato puts forth the organic view of the state, and speaks in terms of collectivism as against individualism As a great philosopher and idealist, Plato conducts a search for the eternal principles of human conduct, which enable men to have justice, the highest good The state, a natural association has an ethical basis, and the ideal state is characterised by wisdom, courage, temperance and justice In this state, there is no conflict between the individual and the state, and so also there is harmony between the individual's inclination and his duty The individual realises fulfilment in the ideal state, which is ruled by the *philosopher-king* In the ideal state, in the interests of the good of the community, political power is divorced from economic power The Guardians of the Republic are not to have private property and family interests Plato makes no difference between the state and various kinds of communities and associations

State, Natural and Necessary for Good Life Like his teacher Plato, Aristotle regards the state as a natural association Both of them never made a distinction between state and society Aristotle says that the state came into being for life and it continues for the sake of good life Both the philosophers speak of the state as an ethical institution, and link it with high principles The state, according to Aristotle, is the highest of all associations, as it aims at the highest good, and the highest good is the happy and virtuous life of the citizens The state embraces all human associations as the whole embraces all its parts Man does not realise self-sufficiency in the family the village and other forms

of human association, these are only stepping stones to the state, the supreme association Both Plato and Aristotle regard man as a social and political animal, who cannot live in isolation apart from the state Aristotle believes that a man who can live in isolation is either a god or a beast

Influenced by Plato and Aristotle, modern political thinkers look at the state from the ethical or moral point of view, and make an ethical approach to political theory It is again the influence of Greek thought that makes some modern idealists identify the state with society Similarly, modern idealists following the Greek line regard the state as an organic unity In Greek thought, the individual claiming any right against the state does not arise, in the idealism of Hegel and Bosanquet the individual is not to go against the will of the state

More and Rousseau In medieval times, owing to the supremacy of the Church and the rivalry between State and Church, adequate interest in Greek philosophy was not taken The revival of the study of the Greek classics began with the Renaissance and the Protestant Reformation Plato's *Republic* in general and his communism (in the *Republic*) in particular had a profound influence on the great idealist Sir Thomas More, the author of the *Utopia* The French philosopher Rousseau took deep interest in Greek thought, and through his *Social Contract* he put forth the view, like the ancient Greek philosophers, that the state is not primarily a legal association, but a moral association According to Rousseau, in the state man becomes intelligent and human, and realises his moral perfection

D Meaning and Basic Principles of Idealism

Let us briefly examine the meaning and basic principles of idealism

Emphasis on Great Principles and Abstract Perfection In ordinary usage, we speak in terms of ideals, which [illegible] try to reach What is real is regarded as imperfect, [illegible] efforts are made to go higher and higher, and reach a [illegible] of perfection, which we call an ideal Ideals are never reached, [illegible] they are within the easy access of human beings [illegible] to be ideals "In the popular sense the term 'ideal' [illegible] a tendency [illegible] oppose the representations of the [illegible] and [illegible] empirical reality and to give them a [illegible]

in the scale of human values "[1] According to the *Encyclopaedia Britannica* (Vol 12), idealism is "a term generally used for the attitude of mind which is prone to represent things in an imaginative light and to lay emphasis exclusively or primarily on abstract perfection (i e on *ideals*) "[2]

Difficult to Define It is possible to give the basic principles of idealism but it is very difficult to define it precisely Here again, the political scientist finds himself at his wit's end "Idealism contains so many ingredients that it almost defies a compact definition To begin with, it is an anti-materialist philosophy It assumes that the spiritual or ideal is the supreme reality and either denies the existence of the world of matter or relegates it to a place of minor importance Secondly, idealism is a collectivist philosophy exalting church, state and society above the individual and stressing the importance of duties and obligations rather than rights "[3]

Basic Concepts The theory of idealism, which is the result of pure thought and which is based on several *a priori* assumptions, has certain basic concepts "Idealist political theory is essentially an attempt to adapt to modern conditions the classic Greek view of the social nature of the individual The modern additions were drawn principally from Hegel and Rousseau "[4]

The following are the basic principles of idealism

1 **State an Ethical Institution** The state is a moral institution, which is more or less identical with society

2 **Personality of State** The state has a personality and a soul The consciousness of its members is its soul The development of the human personality can take place only through the state Man, the social and political animal, cannot do without the state It is through the state that the real nature of man expresses itself

3 **No Clash between End of Individual and End of State** Broadly speaking, in the ethical sense, there is no clash between the end of the individual and the end of the state, in fact, both are identical because both aim at the perfection of the human personality

1 *Encyclopaedia of the Social Sciences* Vol 7 (1934) p 568
2 Op cit. p 65
3 E M Burns *Ideas in Conflict* (1960) pp 250-51
4 L. W Lancaster *Masters of Political Thought* Vol III (1959) p 238

4 State Man's Friend and Ally The state helps the individual to grow to his full stature, and it is indispensable to him While the communists regard the state as an instrument of exploitation and the anarchists consider it as an unmixed evil, which should be scrapped, idealists look upon the state as man's friend and ally

5 Superior Will of State The state has a will, which is superior to the individual's will

6 Will Basis of State According to T H Green, a moderate idealist *will and not force is the basis of the state*

7 State a Moral Organism The state is a moral organism it is a whole and the individual is a part of this whole. The whole is greater than the part The part, that is, the individual cannot exist without the whole

8 Real Freedom in State Real freedom can be [illegible] only in the state This freedom, which became po[illegible] society, is an externalisation or objectification of [illegible] in the conception of freedom in the individual's [illegible] tion which but for society would remain un[illegible]

9 State Means to an End According [illegible] the state is a means to an end, and no [illegible] the individual to realise his potentialities [illegible]

E Prominent German Idealist Thinkers

Let us briefly study the views of [illegible] and Hegel

origin of the state The contract, according to Kant, is constitutional, and it binds the government and the people The contract does not create the state, but only the form of government

Individualism and Respect for Personality Individualism and respect for personality form the soul of Kant's philosophy An individual is really free, when he is morally free, and modern philosophers freely make use of the phrase *autonomy of the moral will*, an expression coined by Kant The state is to give full scope to the free will of the individual, provided it wills rational objects Individual freedom however is to be subordinated to the larger demands of social good Kant says that all persons should have liberty and equality as necessary qualities of rational beings It is the duty of the state to get rid of forces opposed to freedom

The Kantian idea of the state hindering hindrances to freedom was taken by the idealists Green and Bosanquet The state according to idealists should "hinder hindrances to freedom"

Unlike Hegel, Kant would not allow the individual to be immolated before the state The state should not be given unlimited power, and is not to be allowed to crush the personality of the individual

As an individualist, Kant stood in favour of the institution of private property but private property should not be unlimited

Duty as Matter of Conscience While favouring individualism, Kant called upon the individual to discharge his obligations as a matter of inner conscience The individual enjoys rights, which are synonymous with moral freedom Between rights and duties, Kant laid greater stress on the latter

Punishment for Justice As regards punishing the individual for crime, Kant did not have the aim to reform the criminal Punishment was meant to uphold justice, but it was not aimed at striking terror

Against Revolution Kant was against violence and anarchy, and hence did not give the individual the right to revolution He strongly felt that the state, as a moral and ethical institution serving the moral growth of the individual, should not be destroyed by violent revolt

Against War Kant, unlike Hegel, regarded war as an evil, and was in favour of having good relations among different states Unlike Fichte and Hegel, he thought of humanity as a whole, and not in terms of the absolute power of the national state In the time

of Kant, it was too early to speak about out-lawing war, but even then, in his *Jurisprudence* (1797) he put forth the proposal of forming a permanent congress of states to settle inter-state disputes

Merits Kant's philosophy has done distinct service in the realm of thought in the following respects

(1) It lays great emphasis on morals, in fact the entire app roach of Kant is ethical

(2) Kant does not give too much power to the state, to him the mere idea of social contract binds the government and the people

(3) Kant speaks in favour of individualism, which is the core of his philosophy

(4) He is against war, and wants good relations among states

Defects Kant's philosophy has the following drawbacks

(1) Kant's ideas are too vague and abstract His philosophy is not based on empiricism

(2) Moral freedom about which Kant spoke so much cannot be easily understood Perhaps, Kant did not have an absolutely clear image of it That is why he is criticised for wavering between eighteenth century individualism and later idealism

(3) It is said that there is little in Kant that is original, and some would confer the title of the Father of Modern Philosophy not on Kant but on Hegel

2 Johann Gottlieb Fichte (1762–1814)

Disciple of Kant Fichte unlike Kant was very much interested in practical politics He bore witness to the ravages of the Napoleonic Wars He became a teacher in different German universities and finally taught as a Professor of Philosophy in the new Berlin University He called upon the Germans to have strong national consciousness the absence of which he thought led to the failure of Prussia before Napoleon Like Kant Fichte also was influenced by Rousseau He was a follower and interpreter of Kant but in course of time he deviated from the Kantian path and assumed an extreme posture

Fichte's Views Fichte's views can be summarised as follows

1 **Against Pre-Social State of Nature** He is against the view in support of a pre-social state of nature, in which man enjoyed natural rights Fichte says "The state itself is man's natural condition" In other words, the state is implied in human nature itself However, one cannot speak of natural rights as such the only absolute right man has is to exercise his rational will

2 **Property, Protection and Union Contracts** The functions of the state are "to give to each for the first time his own, to

instal for the first time in his property, and then to protect him in it" Fichte spoke about three contracts Property contract, Protection Contract, and Union Contract according to which individuals agreed to unite to give effect to the earlier contracts thus completing the social pact and constituting a sovereign

3 **State to Make Individuals Free** The state as a moral association has to create necessary conditions for the development of the individual's personality "In his mature political writings Fichte argued that the principal function of the state is to make individuals free by establishing in the outward world the conditions necessary to further indentification with the Universal This *meant that it was the rightful business of the state not* only to remove obstacles which might stand in the way of this consummation but to compel people to follow proper courses of action to that end" [1]

4 **To Provide Right to Work** One of the important functions of the state is to provide every one the right to work, which is to be rewarded Fichte attaches deep moral significance to private property, which has a social basis and aim

5 **Economic Self-Sufficiency** Fichte advocated economic self-sufficiency, and was against the British *laissez faire*

6 **Individual Not to Merge with State** Like his teacher Kant and unlike Hegel, Fichte is against the individual merging in the sovereign state In fact, he says that the power of judging *government must be vested in the people*

7 **Exaltation of National State** At first Fichte was in favour of a world organisation of states, but gradually he became more nationalistic Finally, he exalted the state to such a level that the state became an end in itself

3 George Wilhelm Friedrich Hegel (1770-1831)

Witnessed Napoleonic Wars Hegel was born in Germany in 1770 His father a civil servant gave him good education At the age of 18 he joined the University of Tubingen as a student of theology Instead of taking interest in *the course of theology he took deep interest in the study of Greek and* Roman classics In 1790 he got a doctorate in philosophy but in the cerificate in theology which the Tubingen University gave he was regarded as quite deficient in philosophy

This youngster however was destined to be one of the foremost philosophers of the nineteenth century After his studies he went to Berne in Switzerland and

1 C. Maxey *Political Philosophies* (1959) p 493

later on to Frankfort where he worked as a private tutor He stayed for six years in Jena where he became a regular professor in 1805

In 1806 Napoleon won the battle of Jena an event which had a profound effect on Hegel s philosophy Hegel a passive observer of these stirring events is supposed to have conceived a profound admiration for Napoleon as the embodiment of great historic forces and to have modified his thinking accordingly[1]

In 1816 the publication of the last volume of his *Science of Logic* brought him into limelight and now he had to choose one of the three professorships that were offered He rejected Erlangen and Berlin and accepted Heidelberg In 1816 he left Heidelberg and went to Berlin where the chair of philosophy was vacant by Fichte s death in 1814

It was at Berlin that Hegel won international renown His philosophical principles were appreciated by the Prussian Government His great works were *The Phenomenology of Spirit* (1807) *Logic* (completed in 1816) *Philosophy of Right* (1821) and the *Philosophy of History* (published posthumously in 1837)

Hegel s Dialectic Unlike Kant who followed *a priori* or deductive method Hegel followed the historical and evolutionary method

The world is not static but dynamic The evolution of civilisation does not take place in a straight line the movement is zig-zag In the active moving process of evolution what is undeveloped undifferentiated or homogeneous splits up into many different or contradictory forms which unite again and reach a higher state In the higher state the lower form is not to be seen it is changed and sublimated in the higher form This evolutionary process is called dialectic In Hegelian thought all ideas develop through dialectic

The process of evolution takes place according to definite logical principles History presents the process of continuous and disciplined development in a world which is in constant flux moving towards a certain point The starting point of Hegel s philosophy is that the real is rational and the rational is real Essentially God or the Absolute is Thought and Thought is the ultimate reality Thought is life and life is thought[2] Hegel explained the growth of society and its institutions with the help of his dialectical theory According to Hegel there are three stages in the rational process of evolution Thesis (abstract universal concept) Antithesis (concept giving rise to contradiction) and Synthesis (reconciliation of centradictory concepts)

In Hegel s reasoning the family is the thesis the bourgeois society is the antithesis and the state is the synthesis

State, Result of Dialectic Like the ancient Greek philosophers, Hegel thought that the state was a *natural necessity* The state represents divinity, and hence patriotism is as great as religion itself The state is the result of dialectic It is a super-organism combining the best in the thesis (family) and anti-thesis (bourgeois society) Hegel describes the state in extravagant terms

State, a Super Personality The state is perfected rationality actualisation of freedom the incarnation of general will and the

1 Ibid p 493
2 E Asirvatham *Political Theory* (1957) p 441

embodiment of reason It is a super-personality representing the best in the individual will As the march of God on earth, it is absolute, omnipotent and infallible As an organism, it has a natural growth 'The state is the individual in history It is to history what a given individual is to biography" The state has a real personality, apart from the personality of the individual, it has a real will, and the will of the state is general will General will is not the total of individual wills

The personality of the state is over and apart from the personality of individuals The state thus is superior to the individual The state, which can never be unjust or go wrong gives the individual the conditions to enjoy freedom

Realisation of Freedom in State Only According to Hegel the individual is able to realise his freedom only as a member of the state Like Kant and Fichte, Hegel draws from Rousseau the idea that freedom is the essence of man Freedom is something that is positive and which is expressed outwards It exists in the state and is a product of social life Law and social institutions are its outward manifestations

Freedom in the real sense is experienced by the individual only in the modern state It did not exist in the Greek city state, which tolerated slavery Freedom is the quintessence in humanity, and man ceases to be human, when he loses it To realise this freedom fully man must be a member of the state, and obey the state fully

State Infallible and Omnipotent Hegel makes extravagant claims on behalf of the state He says that the state is infallible, absolute and omnipotent it is a super-personality When he obeys the state he actually obeys his own real will The evil effects of the French Revolution compelled Hegel to draw a philosophy in favour of absolute obedience to the state

According to Garner, the Hegelian state is a God-state Rightly it has been said that Hegel s state reaches a mystical height

Law and Liberty Equated In Hegel's state law and liberty are equated For instance, when the judge condemns a man to death he is also expressing the real will of the man, who is sentenced

Nationalism and War Hegel spoke in favour of a national state in an exceptionally strong manner, and unceremoniously brushed aside international good will and morality He laid great emphasis on the importance of nationalism, particularly German nationalism

The chief principle of a national state is struggle The uniqueness and perfection of a state can be judged by its relations with other states

War is not an absolute evil, it has to be waged by a nation to realise God fully Supreme power passes from one national state to another, and this shows the movement of God Thus philosophically Hegel supported war Only one nation at a time can be supreme and realise God fully While love of humanity is an *insipid invention*, war represents virtuous activity War is as essential to national life as the winds are to the sea Hegel justifies war on the following grounds

(1) It shows the irony of the divine idea
(2) It destroys the egoism of the individual
(3) Ethical health of people is preserved by war
(4) Peace corrupts, but war is a virtuous activity
(5) War strengthens a nation internally and prevents civil war
(6) World spirit is personified in the state that is successful in war

Successful National State Not to Worry About International Law The corollary of a strong national state, which can justify war to show the movement of God is the negation of international law War among national states shows which national state is the most powerful, and which represents the *Weltgeist* or World Spirit The successful national state has no need to care for international law Here Hegel's attitude to international relations is quite contrary to that of Kant Hegel speaks much in favour of the absolute power of the national state, and there is little that can be said in favour of international law, which represents nothing more than accepted usages among national states, these usages are valid as long as they agree with the aims of the absolute national state Thus Hegel makes international law important and powerless, and indirectly encourages the law of the jungle in international relations

While in the case of individuals, the state courts decide the matter, in the case of warring states, there is no court as such to settle the disputes The history of the world can judge the conduct of national states in the international sphere National states being unconscious instruments of the *Weltgeist* or World Spirit, there is no question of having international arbitration

Victory Final Proof of World Spirit in History While dealing with history, Hegel glorified the spirit of Germany According

to him, in the world there are following four stages through which the idea of freedom is realised

(1) In the Oriental stage only the despot was free
(2) In the Greek stage some were free
(3) In the Roman stage too some were free
(4) In the German stage all are free

The march of history is governed by rationalism, and it is "the pilgrimage of man's spirit in search of itself" World history, the ultimate court, shows that victory is the final proof of the world spirit Historical movements take place through thesis, anti thesis and synthesis

Private Property According to Hegel, the institution of private property is highly favourable to the growth of personality *Therefore private property should be retained*

Punishment Punishment should be meted out as the right of the society and the criminal Hegel linked punishment not primarily with public security but with right and morality Punishment is to be given to uphold right, which is violated by the criminal It is the right of the criminal to be punished, and the state should not take away this right from him If leniency is shown to the criminal, it means he is treated as a fool or a mad man and if he is punished for the sake of public security, he is treated as a beast

Merits The following are the merits of Hegel s thought

1 Profound Philosophy Hegel gave profound philosophy in the nineteenth century His influence on Green, Bradley, Bosanquet and other philosophers was profound While Kant in several respects wavered while giving his thoughts, Hegel thought with great self-confidence

2 Idealism Developed into a Well-Knit Theory Though Hegel borrowed the ideas of Greek thinkers and Rousseau, who gave idealist thought, the credit of developing idealism into a well-knit theory goes to Hegel

3 Tremendous Influence Hegel's profound influence spread everywhere after his death L W Lancaster says "After his death his influence was very great not only in Germany itself, but also in England and the United States In England he was one of the inspirations of late nineteenth century idealism, while in the United States his disciples dominated most university departments of philosophy until a generation ago "[1]

1 *Masters of Political Thought* Vol III (1959) p 19

Defects The following are the defects in Hegel's thought

1 **Hegel's Excessive Egoism** Hegel was egoistic, and regarded his method only as truly scientific He also believed that he had provided solutions to all puzzles confronting man in the universe

2 **State Absolute** Hegel speaks about the freedom of the individual, but, at the same time makes the state absolute It is strange that the individual realises his freedom by implicitly obeying the state at all times The state is all-powerful, and the individual is sacrificed before its altar

3 **Encouragement of Aggression** Hegel glorifies the national state and encourages it to become aggressive in the name of the World Spirit The actions of national states are to be judged by the tribunal of world history

4 **War Glorified** War is glorified Nietzsche, Treitschke and Bernhardi in Germany followed the footsteps of Hegel, and considered war as something that is noble and indispensable Hegel regarded war as virtuous activity good for the ethical health of the state Germans, who read his views on nationalism and war must have felt elated at the idea that among nations Germany had a divine mission in the world Hegel's philosophy was in no small way responsible for making Germany aggressive to the extent of involving the whole world in two World Wars

5 **State above Law** While Hegel was in favour of punishing the individual, as punishment is the due of society and criminal, he kept erring states above any law Hegel thus gave no scope to international law and morality

6 **No Difference between State and Society** Hegel made no difference between state and society

F Prominent English Idealists

Let us briefly examine the views of British idealists like Green, Bradley and Bosanquet

German and British Idealists The difference between the German idealists and British idealists can be explained by the political institutions of their respective countries In the nineteenth century Germany had to lay stress on national unification and she needed a strong hand that could unify her On the other hand Britain had already gained some experience in parliamentary institutions Besides the sobriety in British character produced moderate idealists like Green In German idealism particularly in Fichte s and Hegel s there is emphasis on nationalism in British idealism there is a strong current of individualism Individualism is an important feature of British character While German idealists supported the

absolute power of the state the British idealists did not like to surrender individual liberty

1 Thomas Hill Green (1836-1882)

Most Liberal Among New Idealists Thomas Hill Green was born in 1836 His father was a Rector in Yorkshire He studied at Rugby and the Balliol College Oxford Green was not only interested in giving the principles of his philosophy but also in practical English politics He became a member of the Oxford Town Council In 1878 he was appointed Professor of Moral Philosophy at Oxford and taught history philosophy of history ethics logic metaphysics and education the next year he gave his *Lectures on the Principles of Political Obligations* which were published after his death

Green has been acknowledged as one of the leading philosophers of the nineteenth century England F W Coker says in his *Recent Political Thought* (1957) The key to Green s political doctrine is supplied by his general ethical doctrines revealed both in his criticism of conventional deterministic and utilitarian ideas and in his exposition of his own views on the nature of the moral man and of moral conduct [1] He was very much influenced by the philosophy of Plato Aristotle Rousseau Kant and Hegel

Green s idealism unlike that of Hegel is of the moderate type Green was the most liberal of the New Idealists In fact he is sometimes considered the real father of liberalism of the twentieth century This brand of course is much different from that of the nineteenth century It is not concerned essentially with the life liberty and pursuit of happiness of atomistic individuals but with the welfare of the society and especially with the welfare of its less privileged members [2]

The following are the main ideas in Green's philosophy

1 **State Natural and Necessary** Like Plato and Aristotle, Green believes that the state is natural and necessary, and the individual s life is part and parcel of the life of the community The state has risen owing to human consciousness of a common end The state to Hegel is an end in itself, but to Green, it is only a means to an end

2 **Will not Force Basis of State** The state is sustained not by blind coercion, but coercion exercised *according to law* in the interests of the rights of the individual Will not force is the basis of the state While Hegel speaks about the will *of* the state Green speaks *in terms of the will for the state* Green, unlike Hegel, the champion of state absolutism, is the supporter of democracy The power of the state should be restricted by the rights of the individual in the internal sphere and by international law in the external sphere

1 Op cit p 419

2 E M Burns *Ideas in Conflict* (1960) p 251

3 Hindering Hindrances The chief function of the state is to uphold rights and to create conditions to enable the individual to develop his personality Green emphasizes the importance of the state hindering hindrances "The state's characteristic work, according to Green, is that of removing external hindrances to the voluntary performance of good acts In executing this task, it has much more to do than defend the community from foreign attack and check traditional crimes and torts It must help to create social conditions in which there will be the fewest possible impediments in the way of each individual making the best of himself"[1] The state has to interefere if necessary with force to remove hindrances in the way of the individual *Hindering hindrances* is an important negative function of the state Slavery, ignorance and ill-health are obstacles in the way of the individual, who wants to develop his personality The state should abolish slavery, spread education and protect the health of the people and thus create conditions necessary to 'fulfil their personalities' The role of the state is chiefly negative in the sense that it removes the obstacles from the individual's path The state cannot deal with the inner motives of individuals, and hence is unable to promote good life directly

4 State, a Society of Societies The state, a society of societies, has the power of adjustment over other groups and associations, each of which has its own inner system of rights "According to Green, the state is the highest form of community, the embodiment and fulfilment of the idea of society Without the state the individual would be nothing"[2]

5 State to Provide Freedom The idea of moral freedom so much in evidence in Rousseau, Kant and Hegel is taken up by Green Moral freedom is an important quality in man He agrees with Hegel that the aim of the state is to provide freedom The individual realises his freedom in the state A man is free when he lives according to nature This does not mean that the individual can do whatever he likes Freedom has to be positive, that is the individual has freedom to do something, freedom has to be determinate, that is, freedom to do something of a definite character to make life better and not to do anything that one pleases

1 F W Coker *Recent Political Thought* (1957) p 424
2 E M Burns *Ideas in Conflict* (1960) p 252

of others The object of punishment is to remove obstacles in the path of rights and to prevent the future violation of rights The aim is not to reform the criminal Punishment is to be according to the importance of the right, which has been violated, and not according to the moral guilt of the criminal

10 Wars Morally Wrong Green's views on war are quite different from those of Hegel He cordemned war as strongly as Hegel glorified it in the interests of the national state According to Green, wars which are sometimes cruel necessities arise out of the imperfections of the state War can never be an absolute right, but only a relative one However necessary a war may be, it is morally wrong, as it goes against man's right to life Wars break out because states do not discharge their duties and main tain general rights Green is in favour of international brotherhood, which wars violate, and an international court of law to settle disputes

11 Emphasis on Negative Functions of State and Individualism Like Kant and unlike Hegel, Green gives a prominent place to individualism in his thought The state exists for the sake of the individual, and the individual is not to be made a tool of the state Green lays strong emphasis on the negative functions of the state rather than on the positive functions

Comparison and Contrast between Hegel and Green Like Hegel, Green attaches importance to the divine spirit or reason reaching its goal in the state Both agree that without the state, there can be no development of personality and both regard the state as the source of freedom and rights

But Green differs much from Hegel Hegel's idealism is of an extreme type, while Green's is moderate Green does not identify state with society like Hegel, and does not make the state absolute and omnipotent

Both of them talk of freedom, but while Green upholds individualism and the freedom of the individual, Hegel sacrifices the individual at the altar of the state

Green regards war as the attribute of an imperfect state Hegel does not regard war as an evil, but justifies it for the glory of the national state

Green stands for universal brotherhood, whereas Hegel provides no scope for international law

Estimate of Green Green made a profound contribution political thought

1 Green s Profound Influence and Restoration of Liberalism to Respectable Standing Green's influence during his life time was not much But he had distinguished disciples like Asquith and Curzon among statesmen, and Ernest Barker and A D Lindsay among political thinkers The influence of his philosophy became great in the last quarter of the nineteenth century "Confronted by the advancing ranks of Hegelian state totalism, utilitarian hedonism, Marxian socialism and Spencerian individualism, liberalism stood helpless and confused Green restored liberalism to respectable standing in the categories of political faith, and gave it a working theory that enabled it to function anew as a positive political principle "[1]

2 Green, Champion of Rights Green borrowed ideas from Aristotle, Rousseau, Kant and Hegel, and applied them to modern political institutions He considers state as an ethical institution without which it is impossible for the individual to have rights and for the development of his personality Unlike Hegel, Green employs the state in the service of the individual, and prevents it from using the individual as its tool As a champion of rights Green goes far in supporting democracy and parliamentary institutions

3 Combination of Idealism and Realism In his sober and practical approach, Green brings about a reconciliation between the powers of the state and the rights of the individual Barker pays him a tribute by saying that he combines soaring idealism with sober realism

The merits of Green's idealism can be summarised as follows

(1) Green is sober and realistic For instance, he favours private property, but is against too much of it

(2) He upholds the cause of representative institutions

(3) He makes the state uphold the individual's rights The state is to hinder hindrances

(4) He condemns war, and speaks of international brotherhood

(5) He says that as a moral institution, the state provides scope for individual freedom and the growth of personality, but at the same time he does not make the state absolute

2 Francis Herbert Bradley (1846-1924)

More Hegelian than Green Francis Herbert Bradley, the son of the Dean of Westminster was born in 1846 Like Green,

1 C C Maxey *Political Philosophies* (1959) p 509

Bradley was influenced much by Hegel He cannot be ranked as a philosopher with Hegel or Green His thoughts are found in his *My Station and Its Duties in Ethical Studies* (1876) They can be summarised as follows

(1) The state is a moral organism

(2) The individual should know his position in society and discharge his duties Man cannot live alone, in society man is very much influenced by others

(3) The state is a 'system of wholes' which includes all associations

(4) As an idealist, Bradley feels that no state has reached perfection Bradley is more Hegelian than Green He has been criticised for not making a distinction between state and society

3 Bernard Bosanquet (1848-1923)

Began with Rousseau and Green and Ended in Hegel Bosanquet the son of a Northumberland clergyman was born in 1848 He was a brilliant student at Harrow and Oxford Green and Jowett at Oxford had a great influence on him He was appointed Professor of Moral Philosophy at the St Andrews' University in Scotland

His most outstanding works were *The Philosophical Theory of the State* (1899) and *The Value and Destiny of the Individual* (1913)

It is generally said he began with Rousseau and Green and ended almost in Hegel. Hobhouse regards him as Hegel s most modern and most faithful exponent This is not true for Bosanquet does not have in his philosophy the excesses of Hegel Though he was not an extreme idealist like Hegel his views were certainly more extreme than those of Green

The following are the main ideas in the philosophy of Bosanquet

1 **Actual, Real and General Will** Bosanquet speaks of the free moral will of the individual Here he is inspired by Rousseau He distinguishes between the actual will of the individual and his real will The rational or constant will of man from moment to moment as a conscious individual is called actual will "Man's true individuality is realised only through an expression of his real will, and the latter is essentially identical with the general will, which is realised only through the state"[1]

2 **State Embodiment of General Will** The real will of the individual, which does not stand alone is linked with the real wills of other members in society, and it becomes the General

1 F W Coker *Recent Political Thought* (1957) p 434

Will General Will is in the interests of common life of members of society "The General Will is expressed only when those participating direct themselves to the question 'what is for the advantage of the whole association?' instead of to the question, 'what is for the advantage of myself, my friends or my party?' The General Will is expressed, then, only in decisions taken in a special way, or by people acting in a special frame of mind"[1] Thus the state embodies the General Will

3 State, an Ethical Institution Necessary for Higher Life Institutions embody ethical ideas The state is the supreme ethical institution, which makes adjustments among the different social institutions and brings about general organisation and synthesis of life Like Hegel and Green, Bosanquet believes that the state is an ethical institution quite essential to man's higher life

4 Individual Subordinate to State In his attitude to the state, as an authority Bosanquet differs from Green Individualism in Kant and Green is the core of idealism, but in Bosanquet's idealism it is not so While Green allows the individual to resist in exceptional circumstances, Bosanquet completely subordinates the individual to the state

5 Deterrent and Reformatory Punishment While Green wants the criminal to be punished for violating rights as a sort of preventive and not as a reformatory measure, Bosanquet is in favour of a deterrent and reformatory punishnent According to Bosanquet, punishment must bring about an enduring reform in the individual's character

6 State not to be Subjected to Moral Criticism Bosanquet wants punishment to be imposed on the criminal but he is not in favour of condemning the state for waging war and other acts Here again, Bosanquet differs from Green The state as "the guardian of our whole moral world and not a factor in an organized moral world" is not to be subjected to any moral criticism The individual is likely to be guilty of moral offences, but the state is not "No one has the right to question the means it chooses to employ, or to judge its acts by the standards applied to personal morality Nor can a state be held accountable for the cruelty or injustice of its agents"[2]

1 S I Benn and R. S Peters *Social Principles and the Democratic State* (1959) p 241

2 E. M Burns *Ideas in Conflict* (1960) p 256

Drawbacks Bosanquet's philosophy has serious drawbacks, which are as follows

1 **Individual Sacrificed** Though he does not go to the extreme length of Hegelian philosophy, he gives too much authority to the state, and like Hegel, is prepared to sacrifice the individual before the state E M Burns says "Bosanquet introduced into his philosophy so many resemblances to the idealism of Hegel that he is often referred to as a Neo-Hegelian He recognized no rights except those conferred by the state and no freedom except that resulting from the submergence of individual interests in the larger interests of the community "[1]

2 **State and Society not Distinguished** Bosanquet does not distinguish the state from society, and allows the individual to be merged in the state Thus, he is anti-democratic

3 **No Scope for International Law** Like Hegel and unlike Green, his philosophy provides no scope for international law

4 **Distinction between Actual Will and Real Will** It is difficult to understand the distinction between actual will and real will According to Hobhouse, the distinction between actual will and real will is false

5 **State as Social Organism** The concept of state as a social organism is wrong

G Evaluation of Idealism

In making an estimate of idealism, a distinction must be made between moderate idealism and extreme idealism The moderate idealists like Green have much that is reasonable to say, while extreme idealists like Hegel make extravagant claims on behalf of the state

Idealism in some respects can be appreciated, while in others it can be severely criticised

Merits Idealism has the following merits

1 **Connection between Politics and Ethics** Idealists have done a great service by establishing an intimate connection between politics and ethics They consider the state as an ethical institution It is true that the individual enjoys rights and freedom as a member of society It is also true that the state enables the individual to develop his personality, provided the state keeps itself within bounds and does not go on interfering in the lives of individuals

1 Ibid p 255

2 **High Ideals** Idealists have fixed high goals Though these cannot be reached, it is good to have ideals towards which the individual and society should move

3 **High Place to Mind and Will** Idealists are also right in giving a high place to mind and will

4 **Emphasis on Importance of State** The greatest merit of idealism lies in its emphasis on the importance of the state Unlike pluralists, who like to knock down the bottom of sovereignty, idealists subordinate the individual to the authority of the state Idealists speak in favour of organic unity of society, and show how the state holds the members of society together

Defects Idealism suffers from several drawbacks, particularly the defects of extreme idealism are serious The following are the defects of idealism

1 **Divorced from Realities** Idealism is abstract and metaphysical, and hence divorced from realities It is difficult to understand idealism fully Particularly, idealism as explained by Hegel is very tedious and difficult to understand

2 **Ugly Realism as Idealism** Sometimes idealists regard realism, however ugly it may be, as idealism For instance, according to Hegel's standards, the aggressive acts of Germany, the national state, which are ugly realities are in keeping with idealism

3 **No Distinction between Society and State** Idealists particularly the extreme ones, do not distinguish the state from society While they talk in terms of individual freedom on one side they sacrifice the individual before the altar of the state on the other

4 **State a Super Personality** Extreme idealism is dangerous, as it makes the state a super-personality transcending the personality of its members Such a state becomes omnipotent and infallible It becomes a God-State "To M Duguit the doctrine that the state is infallible that it can do no wrong, that it is subject to no law except that of wh ch it is itself the creator, that it is not even bound by the moral law or the prescriptions of international law except in so far it chooses to be bound is false and inequitious"[1]

5 **Great Harm to the Individual** Extreme idealism does great harm to the individual by destroying his liberty and suppresses his personality, though it says according to its own logic, that the individual realises freedom in the state only

1 J W Garner *Political Science and Government* (1955) p 216

6 **Power Drunk Dictatorship Supported** Hegelian idealism has gone far in strengthening the hands of power-drunk dictators like Hitler in the twentieth century Hitler could easily justify his acts of aggression in the name of the World Spirit about which we hear much from Hegel Extreme idealism glorifies war, and regards war as virtuous activity Even a less extreme idealist like Bosanquet says that the state cannot be criticised morally While individual criminals can be punished for committing offences, the question of punishing the state does not arise

7 **No Scope for Development of International Law** Idealism provides no scope for the growth of good international relations and development of international law

We conclude by stating what Garner says "Practically all political writers today reject most of the Hegelian philosophy, especially the doctrine of the absolutism of the state, its alleged divinity, the doctrine of blind and passive obedience to establish authority when that authority is illegitimate and oppressive, and the doctrine that the state is an end in itself, a mystical super-personal entity, an incarnation of the Absolute, with rights and interest of its own separate and distinct from those of its own citizens"

MAIN POINTS

1 **Theories of State Activity** Several theories Idealism Individualism Utilitarianism Socialism Communism Nazism Fascism Gandhism and Anarchism

2 **Idealist Theory** Other names Absolute Theory Ethical Theory Mystical Theory Moderate and Extreme idealism Views of Kant Hegel Green Bradley and Bosanquet

3 **Origin of Idealism** Ethical approach of Plato and Aristotle State natural and neccessary for good life Views of More and Rousseau Individual realises moral perfection in state

4 **Meaning and Basic Principles of Idealism** (1) Emphasis on great principles and abstract perfection (2) Difficult to give precise definition (3) State an ethical institution State has personality No clash between aims of individual and aims of state State man s friend and ally Superior will of state State a moral organism Individual gets freedom only in state

5 **Prominent German Idealists**

(1) Kant father of idealism Social contract used as a mere idea Emphasis on individualism and respect for personality State not to have absolute power State only a means to an end Duty as a matter of conscience Punishment for justice Against the right of revolution Against war Merits-Kant emphasises morals Limits powers of state Upholds individualism Condemns war Defects—Vague and abstract ideas Little originality

(2) Fichte Disciple of Kant Against pre-social state of nature Prop rty Protection and Union Contracts State to make Individuals free Provision of right to work Economic self-sufficiency Individual not to merge with state Exaltation of national state

(3) Hegel witnessed Napoleonic Wars and admired Napoleon State result of dialectic Thesis antithesis and synthesis State a super-personality Realisation of freedom in state only State infallible and omnipotent Law and liberty equated Supports aggressive nationalism and war National state not to worry about international law Victory final proof of World Spirit Merits—An outstanding philosopher Idealism developed into a well-knit theory Tremendous influence Defects—Hegel s excessive egoism State absolutism Encouragement of aggression. War glorified State above law State and society not distinguished

6 **Prominent English Idealists**

(1) Green Mo t liberal among New Idealists State natural and necessary State means to an end State to hinder hindrances State not to have absolute power State a society of societies State to provide freedom to individual No rights without state. Right to resistance Property necessary for personality development Punishment to prevent violation of rights Wars morally wrong Emphasis on negative functions of state and individualism Will not force basis of state Extreme idealism of Hegel but moderate idealism of Green Green s profound influence and restoration of liberalism to respectable standing Green champion of rights Combination of idealism and realism

(2) Bradley More Hegelian than Green (2) Bosanquet Began with Rousseau and ended in Hegel Actual Real and General Will State embodiment of General Will State an ethical institution necessary for higher life Individual subordinate to state Deterrent and reformatory punishment State not to be subjected to moral criticism Drawbacks-Individual sacrificed State and society not distinguished No scope for international law Difficult to understand difference between Actual Will and Real Will State as social organism

7 **Evaluation of Idealism** (1) Merits—Politics and ethics linked High ideals High place to mind and will Emphasis on importance of state (2) Defects-Divorced from realities Ugly realism regarded as idealism No distinction between society and state State as super-personality Great harm to the individual Support to power-drunk dictatorship No scope for development of international law

CHAPTER 24

INDIVIDUALISM (LAISSEZ FAIRE) AND LIBERALISM

Individualism and liberalism grew side by side in the 19th century

I The Theory of Individualism or Laissez Faire

A Definition and Meaning of Individualism

State to Protect Individual from Violence and Fraud, but not to Interfere As a social and political theory, individualism was a product of the nineteenth century It was evolved by think ers like Jeremy Bentham and James Mill, and it reached its zenith at the hands of John Stuart Mill and Herbert Spencer S Leacock says in his *Elements of Political Science* (1933) "The individualistic theory may be briefly stated in the proposition that the sole duty of government is to protect the individual from violence or fraud According to this theory, the positive interference of the state with the individual even in his own interest is not justified Nor is the state justified in undertaking operations of an economic character, or in imposing restrictions (other than in prevention of violence or fraud) on the economic activities of its citizens"[1]

Individual Centre of Thought and Maximum Individual Liberty The attitude of individualists was quite different from that of idealists While the idealists made much of the state, as an ethical institution, the individualists made the individual the centre of their thought Individualism stands for maximum liberty to the individual and minimum state interference Individualists say that any enlargement of state activity in the political, social, economic and other fields results in the contraction of the freedom of the individual They would like the state to do negative functions only The state should not go beyond the line of protective functions, and should not step into the field of positive

1 Op cit p 338

functions "Individualism may best be described as an attitude of mind and a body of doctrines which starts with the individual as the centre of the social system to whose needs and interests the latter should be adjusted"

Concept of Welfare State Alien to Individualism The concept of the welfare state is alien to individualist thought The individualist can only think about a police state When the Industrial Revolution took place, it was necessary to remove the obstacles on the road of industrial capitalism *Laissez faire* or free trade at the hands of Adam Smith achieved this task This economic concept gradually grew into a socio-political theory at the hands of J S Mill and Herbert Spencer

B Origin and Growth of Individualism

Germs in Social Contract Germs of individualism can be traced in the Social Contract Theories of Locke and Rousseau, but much is not made of the individual in them, and a theory as such cannot be found in contractualist thought Ideas concerning individualism are abstract in the Contract Theory The world had to wait till the nineteenth century to see individualist thought flowering into proper shape

Physiocratic Principles Against Mercantilism Individualism began as an economic concept at the hands of the Physiocrats of France in the eighteenth century This was given as a counterblast to mercantilism, which stood for the protection, regulation and control of industry, trade and commerce The Physiocrats were dead against state interference and championed the cause of the "natural order", which was synonymous with non-intervention Private property and freedom of contract formed the basic ideas of Physiocratic doctrine The Physiocrats wanted to get rid of the impediments along the path of industrial capitalism

Pet Child of Adam Smith Individualism or *laissez faire* (that is "leave alone" in French) has been regarded as the pet child of the British economist Adam Smith He championed the cause of individualism, in his *Inquiry into the Nature and Causes of the Wealth of Nations* (1776), which became the *Bible* of the friends of free trade He said that every man should be allowed to have his own way to protect his own interests in the field of industry trade and commerce He powerfully advocated the cause of private property and free competition As a result of the individualist pressure, long-standing anti-individualistic laws like the ones

passed in the days of Elizabeth to regulate labour, the Navigation Laws of Charles II, and the Corn Laws were repealed in England

Individualism was supported by Cairnes, Ricardo, and Malthus in England, Bastiat and De Tocqueville in France, and Kant, Fichte and Humboldt in Germany

Climax under J Mill and Herbert Spencer Even in the days of Adam Smith, a proper theory of individualism as such could not be developed It was only in the thought of John Stuart Mill and Herbert Spencer that individualism reached the full stature of a classical socio-political theory

For some time, individualism did very well, but the theory could not be sustained in the twentieth century, when unemployment and depression were real challenges to several governments It came to be utterly discredited, as it was unequal to solve the problems of the time, and serve the welfare of the people

Individualism Applied to Group While classical individualism declined in the last quarter of the nineteenth century and was rejected altogether by the end of the century, a new form of individualism was developed in the twentieth century by thinkers like Graham Wallas and Norman Angell, who applied individualism to the group, and not to the isolated individual

C The Individualist Thinkers

John Stuart Mill and Herbert Spencer were strong champions of individualism in the nineteenth century

1 John Stuart Mill (1806-1873)

Great Scholar and Leader of English Liberalism John Stuart Mill the son of James Mill was born in London in 1806 From his childhood Mill took interest in the study of Greek and Latin The child was truly precocious At a very young age he joined the circle of the followers of Jeremy Bentham He read books on mathematics and history and took a deep interest in the works of Adam Smith and Ricardo Mill did not take interest in sports and hardly had any relaxation Almost all the time was spent in studies By the end of his life he was the acknowledged philosophical leader of English liberalism and in Lord Morley s words one of the great teachers of his age Some price must be paid for such achievements and perhaps that paid by Mill was not too high [1] At the age of 17 Mill joined as clerk in the East India Company and in 1856 (a year before the Mutiny in India) became the head of the Department, which dealt with important correspondence with the Company in India He continued his intellectual activity till his death in 1873 His important works were *Logic Political Economy* and *Liberty Representative Government and Utilitarianism.*

1 L. W Lancaster *Masters of Political Thought* (1959) p 102

State to Leave the Sovereign Individual Alone In his *Liberty*, Mill ardently championed the cause of individualism He asserted '*that the only purpose for which power can be rightfully* excercised over any member of a civilised community, against his will is to prevent harm to others Over himself, over his own body and mind, the individual is sovereign " Every individual must be free to pursue his own good in his own way provided he does not come in the way of others " Mill's individualism, therefore, issues in general conclusion that the state will do well to leave people alone so long as the people in question leave other people alone "[1] In very clear and unambiguous language, Mill marked out the boundaries of the area of state interference The state is a necessary evil it can interfere with the liberty of the individual only when the self-protection of the individual requires it, and when the individual s activities are harmful to the liberty of others

State to Protect from Foreign Aggression and Robbery According to the individualistic theory, the state is to protect individuals from (1) foreign aggression, (2) robbery, (3) physical injury, (4) false contracts, (5) plague, malaria etc The state should also protect those who are unfit to work Some individualists do not allow the state even to protect the unfit and to check epidemics According to them, even postal and telegraph services, education and construction of roads fall outside the sphere of the state activity

Mill Against Idealism Mill was dead against the abstraction of idealist thinkers " He insists on regarding every political question in terms of the happiness or unhappiness of human beings, and not as did the lawyers and the Hegelians in terms of an abstraction such as the General Will or the personality of the state "[2]

Individual Freedom Beneficial Mill advances the following three important reasons why the state should not interfere

(1) The work done by the individual is likely to be better than the work of the state This is because the individual has interest in and aptitude for the work, and he can certainly do better than the paid servants of the government

(2) The individual who does the work himself educates his mind, and strengthens his active faculties Therefore, even if a

1 C E M Joad *Introduction to Modern Political Theory* (1953) p 29
2 Ibid p 24

particular work can be done in a better manner by the government employees, the individual himself must do it

(3) The hands of the government are unnecessarily strengthened, when its employees undertake the work, which should be left to the individual

2 Herbert Spencer (1820-1903)

Thorough Individualist and Rigid Concepts of Laissez Faire Spencer was the most consistent and influential apostle of *laissez faire* in the nineteenth century and his impact on American thinking was even greater than on British political and social thought From early manhood he adhered to the most rigid concepts of *laissez faire* and while most liberals of his generation gradually underwent a change—as could be seen particularly in the case of John Stuart Mill—Spencer never abandoned the creed of his Youth [1] Spencer's opposition to state regulation of industry trade and commerce was bitter

Biological Principle of the Survival of the Fittest In Spencer's individualism much emphasis is laid on the biological principle of the survival of the fittest Herbert Spencer gave to Mill's Individualism a new complexion by importing into it biological conceptions derived from the Darwinian doctrine of evolution While regarding the state as contractual in origin like a limited liability company he also believed somewhat inconsistently in the theory of society as an organism which has evolved [2]

Right of the Individual and Duty of the State Spencer studied subjects like biology and physics, and made use of his knowledge in these subjects for developing individualism He speaks of one right of the individual and one duty of the state The right of the individual is to have equal freedom with others, and the duty of the state is to protect the rights of the individual from violence and deceit The state should not interfere, in industry, trade and commerce, its functions should be negative, and they should be restricted to the maintenance of police, army and judiciary In championing the cause of individualism, Spencer went to the extent of invoking the principle of the survival of the fittest According to him, the state should leave trade and commerce alone It is interesting to note that he criticised even legislation in the interests of public education, health and sanitation Similarly, he was against public charity and poor relief

State an Aggressor Spencer's views on the sphere of state activity are very critical "Spencer started out with the assertion that the existence of the state is the result of man's inherent perversity and egoism and that in reality it is an aggressor rather

1 W Ebenstein *Political Thought in Perspective* (1957) p 501
2 C. E M Joad Op cit p 30

than a protector Being instituted merely for the purpose of curbing his wicked propensities and protecting him from the violence and fraud of his fellows, it follows that in a normally perfect condition of society, government can have no *raison d'etre*'[1] Spencer spoke vehemently against what he called the divine right of parliaments, and very much resented the worship of legislature

3 Friedrich A Hayek

F A Hayek was a strong advocate of individualism

Planning Road to Serfdom He strongly condemned state interference and planning in his book *The Road to Serfdom* (1944) In this, he warned, that just as Na i totalitarianism in Germany was the result of socialism, collectivist trend in England and the United States would surely lead to the destruction of democracy Hayek's views are the product of his actual "experience" in *Austria, England and the United States of America* Hayek says that planning is bound to lead to serfdom or loss of individual freedom "The Gestapo, the concentration camps, and the murder camps are according to Hayek's argument, the result of planning necessarily ending in totalitarianism, rather than the phenomena of fascist or communist politics '[2]

Hayek deals only with the dark side of state planning, and ignores its good aspects His one-sided views have not been accepted by objective thinkers of modern times

D Arguments in Favour of Individualism

The advocates of individualism tried to justify it on various grounds ethical, economic, biological and empirical

1 Ethical (Destruction of Personality) Thinkers like Kant, Fichte and J S Mill advanced *the ethical argument* According to them state interference goes against the development of the individual's personality and character When the government encroaches on the individual's field and takes upon its shoulders the responsibility of doing what the individual should do, the individual loses all sense of responsibility and self-reliance and his personality is destroyed The individual is forced to depend on others and there is no scope for his ability and initiative Only when the individual is left free to himself, he has opportunity to take positive interest in all kinds of activity and develop his personality and character

1 J W Garner *Political Science and Government* (1955) p 417
2 W Ebenstein *Modern Political Thought* (1960) p 647

State-interference, ethically speaking, does great injustice to the individual

2 **Economic (Englightened Self-Interest)** The economic argument in favour of individualism was advanced by Adam Smith, who spoke in terms of the enlightened self-interest of the individual Enlightened self-interest prompts the individual to draw out the best from his personality, and bring forth the maximum results Only when the principle of *laissez faire* reigns supreme, industry, trade and commerce thrive well When there is no state restriction, various individuals compete with one another, and put forth their best efforts Society can get the best not from the forces of state-interference, but from the forces of free enterprise, which stands for free competition

3 **Biological (Survival of the Fittest)** The biological argument was advanced by Herbert Spencer According to him, just as in the animal world the fittest survive, in a free society too only the best individuals will come to the forefront In the atmosphere of full and free competition, there is bound to be a struggle, which will throw up the strongest and the best, brushing aside the weak and the incapable Thus society gets the benefit of the best individuals through individualism or *laissez faire*

4 **Empirical (Inefficiency and Corruption)** Actual experience shows, according to the advocates of individualism, that state-interference kills efficiency and incentive, and encourages incompetence and corruption Government employees have no interest or stake in any work There is no need for them to do their best, as the deligent and enterprising people will not be rewarded more than the lazy and indifferent people Private entrepreneurs are forced to make use of all their resources and ability to come forward in the struggle for survival, for the lazy and the inefficient ones will be brushed aside But on the other hand, state enterprises are notorious for their tardiness, and bribery, corruption and red tape are the normal features of government departments

State-Interference Discredited Government regulation whether positive or negative does not serve the purpose for which it is made Sometimes the state subsidises industry for the sake of encouraging it Bounties and subsidies are granted, and tariff walls are raised to strengthen the weaker elements in industry and trade But actual experience shows that the recipients of

government support, whether direct or indirect, do not take full advantage of it State-interference is thus discredited

E Evaluation of Individualism

We shall briefly examine the merits and defects of individualism

Merits The following are the merits of individualism

1 **Production Multiplied** Industrial production got a powerful impetus from the theory of *laissez faire* Every country in which the industrial revolution took place produced commodities on a mass scale The lure of handsome reward in industry, trade and commerce goaded captains of industry to give their best in every field Industry was thoroughly mechanised, means of transport and communication were revolutionised, and all kinds of cheap and glossy goods reached the four corners of the world Living became comfortable

2 **Encourages Self reliance** Individualism encourages self-reliance Individualism rendered a great service as far as it laid emphasis on the dangers of state-interference it also spoke rightly in underlining the importance of self-help for the good of the individual and society 'In emphasising self-reliance, in combating needless governmental intereference, in urging the value of the individual in society, it has contributed much to the virility of modern thought'[1]

Defects The following are the defects of individualism

1 **Harmful to Society** The drawbacks of *laissez faire* worked clearly to the detriment of society at large, and people regarded individualism as a curse C E M Joad points out the serious fallacies of individualism It is wrong to presume that each individual is equally far-sighted, that each individual has an equal power of getting what he wants and that the satisfaction of all individuals is the same as the welfare of society The drawback of the individualistic theory 'lies in the fact that on closer examination it is seen to contain inconsistencies of a serious character To carry it out fully and absolutely would involve the adoption of an attitude at variance with the dictates of common sense, and one which no government has ever found it practical to completely accept'[2]

2 **Weak Elements Crushed** Individualism encouraged unfair competition, and owing to this the politically, socially and economically strong elements in society crushed the weak ones

1 R N Gilchrist *Principles of Political Science* (1961) p 445
2 S Leacock *Elements of Political Science* (1961), p 341

3 **Extravagance and Waste** Individualism resulted in extravagance and waste on a large scale Industrial capitalists engaged themselves in cut throat competition, and the resources were unnecessarily wasted

4 **Sufferings of Workers** In the total absence of state-interference, workers were thrown to the tender mercies of employers

5 **Social Discord** As the gap between the rich and the poor increased, there was social discord, disharmony and bitterness

6 **Misuse of Power** Private enterprise misused the power and influence it got through free trade Money started speaking loudly, and governments went under the control of the rich private entrepreneurs

7 **Against Instinctive Impulses of Humanity** *Laissez faire* ignores realities Leacock criticises the complete adoption of individualism "Its adoption in complete form runs counter to the most instinctive impulses of humanity, and would neglect governmental duties of the most evident character As a matter of political justice, it rests on a mechanical attempt to completely divorce individual and social rights On an economic basis it overlooks the plain advantages of cooperation and regulated effort As a scientific law it will not stand examination "[1]

False Claims Society did not take much time to realise how injurious individualism was to society, and how the claims made by Mill and Spencer could not stand the test of time

1 **State not an Evil** J S Mill regarded the state as a necessary evil, but actual experience has shown that it is not so The experience of people all over the world, including the United States of America the citadel of individualism and private enterprise shows that the state has to interfere in the larger interests of society Every state in the world finds it necessary to intervene for the good of the community

2 **Principle of Survival of the Fittest, Cruel** Spencer's support to the Darwinian principle of the survival of the fittest cannot justify itself According to the principle, the weak, the old and the infirm have no right to live, and they have to suffer at the hands of the strong, the young and the healthy Thus the forces of competition sign the death warrant of the weak members of society The principle is absurd, cruel and inhuman, as the old, the crippled, the orphanned and the widowed, who cannot

1 Ibid p 348

enter the battle for the survival of the fittest are liabilities, and they should all perish No concept can be so cynical and brutal as this, and if it is followed, there can be nothing but social injustice The strong would live in comfort and glory, and the weak would be trampled under foot

3 **Laws Do Not Restrict Liberty in Democracies** It is wrong to argue that laws regulating human behaviour restrict liberty In fact, laws are necessary for the enjoyment of liberty In totalitarian states, laws passed at the instance of one party abridge liberty, but in democratic states, it is not so Laws are passed for the good of the society as a whole Society has to choose between the narrow interests of the individual and the wider interests of society

4 **Planning Useful** Planning has been found useful every where, and plans drawn up by states in different parts of the world have borne fruit Contrary to what Hayek says in his *Planning Road to Serfdom*, planning has done much good to society, and it has not destroyed individual liberty

5 **Competition Disastrous** Competition has spelt disaster everywhere, and the claims made by J S Mill have been falsified Competition can never be free as long as there is a wide gap between the rich and the poor The small man has no chance to survive in a world in which the big industrialists and traders manage to get everything for themselves

6 **State-Interference Does not Cripple Personality** It is also not true that state-interference cripples the human personality and character On the other hand, it aids personality development

7 **State Enterprises not Always Incompetent** The argument of state incompetence cannot be applied in all cases In certain countries, like Britain, Soviet Russia and Japan, governments have acquitted themselves very well in running industries or discharging social welfare duties

8 **Individual Needs State Guidance** Individualists claim that the individual knows what is good for him, and the state need not interfere at all The conditions in several countries particularly in backward countries, show that the ignorant and illiterate masses of people do not know what is good for them, and it is the duty of the government to guide these people and protect them Even if the individual knows what is good for him, the state cannot remain passively looking at every individual feathering his own nest at the cost of others The state has

to maintain a proper balance between individual interests and collective interests in society, and it has to interfere and regulate when need arises

F Modern Individualism

Norman Angell and Graham Wallas Though traditional individualism has been rejected as harmful, individualism linked with groups has emerged in the thought of modern thinkers like Graham Wallas, the author of the *Great Society*, Norman Angell, the author of the *Great Illusion* and others Norman Angell, a staunch advocate of internationalism, is in favour of the state merging in an international order built on an economic class basis Graham Wallas is highly critical of the parliamentary system as obtaining at present According to him, the method of representation in the parliamentary set up is faulty, and he pleads for representation on a vocational and geographical basis as against a purely territorial basis

Shift from Individual to Group Modern individualism shifts the emphasis from the individual to the group Traditional individualism led to the evils of industrial capitalism and the exploitation of the weaker individuals in society Even in a modern democratic set up, there is the danger of the tyranny of the majority party Individual interests and group interests have to be shielded from the new injurious trends It is true that given a comfortable majority, the party in power can go to any length in suppressing those that belong to other parties or those who do not agree with it It is hardly possible for the people in the large modern states to assert their will, but it will be possible for them to assert themselves in small groups, which uphold various interests

Pluralist View There has been an increase in the powers of the state to Frankenstein proportions in the name of Hegelian idealism and collectivism Pluralists very much resent the sovereign power of the state, and are in favour of giving much importance to associations There are many associations in society which cater to the needs of society The state should not be allowed to interfere excessively in the affairs of these groups

Party Dictatorship It is also said that democracy as found in England and India cannot be a shield to the interests of the individual and groups in society In the name of parliamentary democracy, parties actually cultivate their dictatorship For instance in India it is said that individual freedom is curbed and restricted

by the Congress Party, which is in power It is feared that totalitarian trends are developing within the frame work of parliamentary democracy In India, the Parliament and State Legislatures are under the control of the Congress Party, and the executive officers have been armed with wide discretionary powers. In October 1962, the President of India proclaimed an Emergency, and since then the Congress government assumed more and more power in the name of Emergency [1] The Emergency was continued till January 1968

During the two Global Wars, it was the aim of all governments to win the wars at any cost The people in almost all countries had to pay heavily in terms of individual liberty In the interests of the state power, many laws curtailing individual liberty were passed

Why Modern Individualism The following arguments are advanced in favour of modern individualism

1 **Group Interests To Be Protected** Modern individualists say that social groups or associations have their own personality, and group interests should be protected State interference should not be excessive at the most, the state should act as a coordinating agency Graham Wallas and others plead strongly on behalf of individual in the group against the ever increasing power of the state

2 **Excessive State Control Self-Defeating** Excessive state control defeats the very purpose for which the state was formed In some of the modern states like Soviet Russia and Communist China, the state is all powerful and the individual represents a negligible quantity The state tramples on the dignity of the individual's personality, and goes against the interests of the individual, which it is supposed to uphold

3 **Top Heavy Administration** Too much of state-interference means top heavy and over-burdened administrative set up, which is likely to break down

4 **Red-Tapism and Corruption** State-interference leads to inefficiency Individuals and associations flourish, when state-interference is the least Too much of state control leads to elimination of initiative and competition, red-tapism and corruption

1 In the Fourth General Election (February 1967) the Congress was routed in many constituencies In the Lok Sabha its majority was slashed by 80 seats In states like Kerala Madras and Orissa the opposition parties formed government In November 1969 owing to the struggle between the Congress President Mr S Nijalingappa and his supporters (nicknamed Syndicate) and Prime Minister Mrs Indira Gandhi and her supporters (nicknamed the Indicate) the Congress was weakened

Via Media It can be concluded that too much of individualism and excessive state control are both harmful to the individual and society It is better to have a *via media* How far the individual should be left free, and to what extent the state should interfere, depend upon the actual conditions obtaining in a country

II Liberalism

A Origin and Meaning of Liberalism

Movement in England, Holland and Spain "Liberalism and democracy, together with socialism and communism are the labels which sum up the basic terms of the political contest of the nineteenth and twentieth centuries"[1] Political liberalism rose in Western Europe and America in the nineteenth century But it made striking progress only in England, Holland and Spain The liberal movement was successful particularly in countries having a *strong middle class The Spanish liberals were the first to* employ the term 'Liberalism' and uphold the principles for which it stood In countries like Germany, it failed to strike deep roots, in Germany the problem of national unification threw into the shade constitutionalism and liberalism "Only in England, which throughout the nineteenth century was the most highly industrialised country in the world, did liberalism achieve the status at once of a national philosophy and a national policy"[2]

Origin in Greece The evolution of liberal ideas took a very long time Gilbert Murray is of the opinion that the Greeks first evolved the two principles of classical liberalism, that is, Freedom of Thought and Political Freedom, but in Greece, liberal principles could be enjoyed only by citizens, who formed a small number in the community Women and slaves were denied the benefit of liberal ideas

Religious Tolerance and Liberalism Traces of liberalism could be seen in the seventeenth century When the Protestant Reformation divided Christians into Roman Catholics and Protestants, and almost everywhere religious freedom was in jeopardy, writers with liberal views advocated the cause of religious toleration and freedom Spinoza for instance, wanted the church to be separated from the state The cause of religious freedom was also championed by Hobbes, Locke, Galileo, Harvey and others

1 G Sartori *Democratic Theory* (1958) p 353
2 G H Sabine *A History of Political Theory* (1957) p 564

Difficult to Give Meaning Like the terms, nationalism and socialism, the term liberalism cannot be easily defined, and it is open to many interpretations It is "a term of many meanings, often carrying a high emotional content, referring to a cluster of social, political and economic doctrines which have changed radically since the word was apparently first used in Spain in 1811 to refer to the group drawing up the *liberal* Constitution of 1912"[1]

Need of Reforms Liberals lay great stress on man's goodness and rationality, and desire reforms to be introduced in every field for a better future

Individual Liberty, Democratic Institutions and Free Enterprise Liberalism developed an attitude which criticised institutions which restricted individual liberty Broadly speaking, it can be said that liberalism stood for the liberty of the individual, democratic institutions and free enterprise "Very simply, liberalism is the theory and practice of individual liberty, juridical defence and the constitutional state"[2]

Reaction against Feudal and Ecclesiastical Authority Liberalism rose as a reaction against the authority of the feudal barons, the government by aristocrats and the power of the clergy "We have been using the term, liberal, in a spacial sense In the broadest sense, liberalism is rightly identified with the rise of a modern technical society availing itself of democratic political forms and of capitalistic economic institutions This *liberal society* came to birth in Britain, France and America in opposition to the feudal aristocratic culture of the European past Liberalism in the broadest sense is therefore synonymous with democracy"[3]

Old Liberalism not Pro-Labour In the nineteenth century, the liberals had to change their attitude with the rise of new forces The old liberals did not apply their principles to the advantage of workers at home and colonial peoples abroad The new liberals changed with the times and favoured giving recognition to trade unions and political equality to workers

Setback to Liberalism In the latter half of the nineteenth century, workers' minds were captured by socialist parties To them socialism was better than liberalism Thus liberalism got a setback

1 *The Encyclopadia Americana* Vol 17 (1959) p 344
2 G Sartori *Democratic Theory* (1958) p 364
3 Davis and Good *Reinhold Niebuhr on Polit s* (1960) p 13

B Principles of Classical Liberalism

In his book *Liberalism* Hobhouse evolved the following chief principles of classical liberalism

1 **Civil Liberty** Civil liberty is one of the basic principles of liberalism According to this, government should be conducted not by the arbitrary will of any one individual or class, but by law This is necessary to counteract the evil of oppression either by kings or feudal barons and churchmen Under autocracies and in the feudal structure, people were governed as the king or the feudal lord pleased Neither life nor property was safe

2 **Fiscal Liberty** Fiscal liberty is another principle According to this, there should be no taxation without representation

3 **Personal Liberty** Another important liberal principle is personal liberty This covers several rights and duties It is to secure freedom of speech, discussion, writing and printing, and it is directed against the unwholesome control of the state and church

4 **Social Liberty** Liberalism also includes social liberty This implies equality Persons should not suffer owing to their birth, colour, race, sex or economic position

5 **Economic Liberty** Liberalism stands for economic liberty The individual should have the right of property and contract This frees the individual from economic restraints and enables him to form partnerships or associations

6 **Domestic Freedom** Liberals stand for domestic freedom This implies equal rights for women as regards property and marriage, and rights for children

7 **Administrative, Geographical and Racial Liberty** Liberalism includes administrative, geographical and racial liberty This implies administrative and local autonomy, and the rights of nations to self-determination

8 **International Liberty** Liberals demand international liberty This implies peace and international cooperation, and the formation of a world federation of states

9 **Political Liberty and Popular Sovereignty** Liberals also wish to have popular liberty and popular sovereignty All men should have rights, and all should be able to enjoy equality

Emphasis on Social Utility Liberalism did not have a systematic theory, and as a result there was much confusion Jeremy Bentham, James Mill and John Stuart Mill championed the cause

of liberalism Regarding institutions, they laid emphasis on their social utility

Laissez Faire Liberalism upheld *laissez faire*, and hence it became unpopular among critics of capitalism Though liberals criticised capitalism, they indirectly supported it by upholding free trade

Criticism by Marxists and Anarchists Marxists and Anarchists severely criticised liberalism, and regarded it as synonymous with capitalism

J S Mill, Champion of Liberalism Among the liberals, J S Mill was the most outstanding He championed the principles advocated by James Mill and Bentham He stood for the following principles

(1) Extension of civil rights to all classes and women,
(2) *Laissez faire* or free trade,
(3) Wide freedom of thought and expression, and
(4) Freedom of organisation

New Meaning of Liberalism in Twentieth Century In the twentieth century, two currents of thought merged during 1920–40 to constitute modern liberalism viz the political current of democracy and the social current of labour movement "In contemporary discussion, the term 'liberal' and the doctrine 'liberalism have assumed meanings which are different and in many respects the opposite of their original sense Those who call themselves liberal today maintain that orthodox libralism is inadequate to the needs of modern society and is actually a device for exploitation"[1] Twentieth century liberalism stands for a world free from all forms of tyranny and exploitation, and thus it is different from the nineteenth century liberalism

Set-back for Liberalism Owing to various factors, liberalism lost its vigour in the twentieth century, though it continued to exert its influence till the end of World War I In the inter-war period (1919–1939) liberal parties all over Europe were considerably weakened The rise of socialist parties, which met the needs of a vast majority of people, the acceptance of liberal principles by the various democratic parties, and the rise of totalitarian ideologies were powerful factors which led to the decline of liberalism People everywhere found that a separate

1 J S Roucek and Others *Introduction to Political Science* (1954) p 105

liberal party was unnecessary, as principles of liberalism came to be upheld by other parties

New Libertalism Thinkers who call themselves new liberals say that they have changed their ideas according to the needs of the time "According to the new liberalism, governmental interference does not represent a threat to the freedom of the individual, because governments have become beneficial In this assumption, the doctrine differs fundamentally from orthodox liberalism, which asserts that the government can and often does constitute a threat to the freedom of individual "[1]

MAIN POINTS

1 **Meaning of Individualism** A social and political theory of the 19th century evolved by Bentham and Mill Sole duty of government to protect the individual from violence and fraud State intereference not justified Individualists make the individual the centre of thought Individual to be given maximum liberty Concept of social welfare alien to individualism

2 **Origin and Growth of Individualism** Germs of individualism in the Social Contract theories Individualism an economic concept at the hands of the Physiocrats Individualism pet child of Adam Smith Climax of individualism under Mill and Spencer Modern individualism emphasizes group interests

3 **Individualist Thinkers**

(1) J S Mill Great scholar and leader of English liberalism State to leave the sovereign individual alone State to protect individual from foreign aggression and robbery Mill against idealism Individual freedom beneficial

(2) Herbert Spencer Thorough individualist Rigid concept of laisse faire Biological principle of the survival of the fittest Individual to have right to equal freedom Duty of state to protect rights State interference strongly criticised

(3) Friedrich Hayek Planning leads to serfdom Ignores good aspect of planning

4 **Arguments Supporting Individualism** 1 Ethical Destruction of personality 2 Economic Enlightened self-interest 3 Biological Survival of the fittest 4 Empirical Inefficiency and corruption

5 **Merits of Individualism** 1 Production multiplied 2 Creates self-reliance

6 **Defects of Individualism** (1) Harmful to society (2) Weak elements crushed (3) Competition extravagance and waste (4) Sufferings of workers (5) Social unrest (6) Misuse of power (7) Against instinctive impulses of humanity (8) Bad to uphold the principle of the survival of the fittest (9) State not an evil (10) Laws do not restrict liberty but are necessary for the enjoyment of liberty (11) Planning useful

7 **Modern Individualism** Views of Norman Angell and Graham Wallas Shift from individual to group Excessive powers of state and party dictatorship criticised

1 Ibid p 106

Hume's Test of Utility The origin of modern utilitarianism can be traced in the thought of David Hume (1711–1776) He was against rationalism based on the conception of the law of nature According to him the acid test of an institution lies in its utility Pleasure provides a strong motive to the actions of the individual

The Greatest Happiness of the Greatest Number (Hutcheson and Bentham) The ideas of Hume were followed by Hutcheson, Professor of Moral Philosophy at Glasgow (1729-46) and Priestly Hutcheson employed the expression *the greatest happiness of the greatest number*, and Jeremy Bentham made this principle the centre of his thought It was at the hands of Bentham that utilitarianism became a powerful current of thought in the nineteenth century, and so Bentham is regarded as the founder of the utilitarian school, though utilitarian ideas existed even before him

Jeremy Bentham Founder of Utilitarianism

Jeremy Bentham was born in 1748 He had great interest in science and psychology Even as a young man he was highly devoted to social welfare His life most of which was spent in the rule of George III (1760–1820) was like a bridge between the eighteenth century autocracy and the nineteenth century democracy It has been said that England was in need of a new outlook What was needed was a political faith reflecting the outlook of the middle classes which was essentially empirical optimistic willing to innovate and eager to translate natural science into technology and industry and political science into government and administration The most characteristic expression of that outlook is to be found in the work of Jeremy Bentham (1748–1832) the founder of utilitarianism or as it is called philosophical radicalism [1] Bentham s most famous works were *Fragment on Government* (1776) and *The Principles of Morals and Legislation* (1789)

Happiness of the Majority When he was twentythree, he was profoundly influenced by Priestly s *Essay on Government* which taught him that a state should be judged by the happiness of the majority of people Like Claude Helvetius the French writer (1715–71) and Cesare Beccaria (1735–94) the Italian jurist he thought that happiness meant the presence of pleasure and the absence of pain

Sovereignty of Two Masters In this book *The Introduction to Moral Legislation* (1789) he dealt with the sovereignty of two masters pain and pleasure He spoke in terms not of duties to abstractions like state church and party but of duties of one individual to other human beings who experience pain or pleasure

Team of Utilitarian Thinkers Unlike the idealists Bentham and his followers made an empirical approach England witnessed the rise of a team of practical-minded political thinkers who applied utilitarianism to improve the different aspects of British social life Besides Bentham the other members of

1 W Ebenstein *Political Thought in Perspective* (1957) p 404

this enthusiastic group were his disciples James Mill and John Stuart Mill Ricardo the economist John Austin the jurist and Alexander Bain the psychologist and George Grote the politician

The most devoted of Bentham s disciples was James Mill (1773–1836) Like Bentham Mill was very much interested in law and legal reform James Mill s son J S Mill became a powerful advocate of utilitarianism and individualism

Features of Utilitarianism The following are the features of utilitarianism

1 **Realistic** Utilitarian philosophy is realistic, and it thinks in terms of the practical affairs of men and women It does not put forth abstruse ideas, which ordinary people cannot understand

2 **Self-Regarding and Other-Regarding** It thinks of the happiness of the individual and the happiness of others, in other words it lays emphasis on "self-regarding and other-regarding impulses" It connects the individual with society and the happiness of the individual with the happiness of society

3 **State to Promote Welfare** The function of the state is to promote the happiness of one and all If the realisation of general welfare is the aim of society, the state is an agency to reach the goal Welfare is the end, and the state is a means to an end The utilitarians called upon the members of the government and members of parliament to bend all their energies to enhance the happiness of the people and reduce unhappiness and misery

4 **Based on Hedonism** Utilitarianism is based on the doctrine of hedonism According to the hedonistic principle, human beings are in search of pleasure, and they avoid pain In ancient Greece, Aristippus, who established the Cyrenaic School and Epicurus, the philosopher of pleasure spoke hedonist language

Hedonism of modern utilitarians must not be confused with that of the epicureans While utilitarians seek the happiness of the individual and others in society, ancient epicureans asked the individual to assess everything in terms of his own happiness Epicureans have been criticised as egoists thinking about their own pleasures, but utilitarians have been regarded as altruistic The attitude of Bentham and others deserves praise for its altruism

5 **Against Natural Rights** Utilitarianism is against the principle of natural rights

C The Ideas of Jeremy Bentham

Founder of Utilitarianism Jeremy Bentham could claim the honour of establishing a proper system of utilitarianism for the

first time "Utilitarian ethics and utilitarian political philosophies have been expounded by various thinkers and schools in various parts of the world, ever since antiquity But the founder of the formal system of utilitarianism, who also introduced the term (first in 1781) and who above all, drew from it the most far-reaching theoretical and practical implications, was Jeremy Bentham "[1]

For Absolute Empiricism and Against Vapory Idealism As a utilitarian, Jeremy Bentham made a practical approach to all problems that challenged England in his times He had nothing but contempt for mystical theories like the idealist theory Maxey points out "The Benthamite cult was a revolt against the vapory idealism of eighteenth century rationalism For an absolute idealism it sought to substitute an absolute empiricism "[2] Bentham's philosophy moved round the ' greatest happiness ' principle Like his democratic socialist partner, Robert Owen in the New Lanark Factory, Bentham was interested in making society happy He was against an empty philosophical, armchair or doctrinaire approach. He had scant respect for ideas and institutions which served no public purpose It was not the age of an institution but its utility which made Bentham respect it Hence, he deserved the epithet the "foremost apostle of the practical"

Zeal for Reforms Bentham worked with a missionary zeal to bring about far-reaching reforms aiming at the happiness and welfare of the people His attitude and action made those in power pay attention to him and introduce the much needed reforms As a reformer, Bentham, who looked like a "new Moses' did not mince words in criticising government and in speaking what he felt was right.

He advocated the following

(1) annual parliaments
(2) equal electoral districts,
(3) freedom of the press, and
(4) abolition of the House of Lords

To promote the people s welfare he suggested the following reforms

(1) municipal reform,
(2) revision of criminal law to make it human,
(3) improvement of prisons,

1 *The Encyclopaedia Americana* Vol 27 (1959) p 620
2 C C Maxey *Political Philosophies* (1959) p 456

(4) suppression of beggary by the able-bodied,
(5) national education, and
(6) health legislation

Reforms like annual parliaments were not introduced, as they were not practical but most of Bentham's proposals were taken up by the British Government in the different laws passed from time to time The reforms, which Bentham advocated covered almost all fields of society In the case of all institutions, Bentham applied his principle of utility for justifying their existence The greatest service that Bentham did was to plead for the spread of education The same can be said about him as a law reformer In his effort to reform law, he applied his mind to the study of English law, laws of the continental countries and international law

Basic Doctrines of Bentham The following are the basic doctrines of Bentham

1 **Pleasure the Only Good** Bentham emphasized the point that pleasure is good, and pain is an evil "Now pleasure is in itself a good, nay, even setting aside immunity from pain, the only good, pain is itself an evil and indeed without exceptions, the only evil, or else the words 'good and 'evil' have no meaning there is no such a thing as any sort of motive that is in itself a bad one"

2 **Measuring Pleasure and Pain** It is possible to measure pleasure and pain Government can study the value of its measures in terms of pleasure and pain " pleasures and pains may be measured, if not with complete accuracy, at least accurate enough to enable rulers to encourage the one and discourage the other "

3 **Everyone Aiming at Pleasure** According to him, man is under the sovereignty of two masters—Pain and Pleasure Every individual tries to be loyal to the latter, and would like to be free from the control of the former

4 **Aiming at Overall Increase of Pleasure** The state should bring about a net increase of pleasure ' while seeking primarily for pleasure and the avoidance of pain, men ought, says Bentham, to aim at the overall increase of pleasure '

5 **Legislature to Act** The legislature should act to increase pleasure and reduce pain " on the basis of a detailed evaluation of pleasures and pains legislatures could increase the one and diminish the other by the applications of sanctions "[1]

1 L W Lancaster *Masters of Political Thought* Vol III (1959) pp

6 Various Pleasures and Pains Bentham mentions pleasures of sense, wealth, skill, amity, good name, power, piety, benevolence, memory, imagination expectation, association and relief as simple pleasures, and pains of privation, sense, awkwardness, enmity, ill repute, and, malevolence, as simple pains

7 The Greatest Happiness of the Greatest Number An action is morally tenable or untenable according to the pleasure or pain it yields The extent of the pleasure or pain can be measured by the number of persons affected by it Bentham gave wide publicity to the slogan "the greatest happiness of the greatest number" Law-makers should judge actions by this standard They have to examine how much pain is counter-balanced by the pleasure an action yields The action is supposed to be in the interests of society, if its balance is in favour of happiness as against pain or unhappiness Computation of pleasure or pain can be made by considering seven factors viz intensity, duration, certainty or otherwise, remoteness, purity, fecundity and extent

8 Utility in State and Criticism of Blackstone As a law student at Oxford, Bentham was deeply interested in the theory of jurisprudence He disliked the lectures of his professor Blackstone, who praised English law, and regarded law as a product of a social contract He published a criticism of Blackstone's publication dealing with law to lay emphasis on utility According to Bentham, the state was built not on contract, but on people s habit to obey which was cultivated because they saw utility in the state

9 Criticised English Criminal Law As a thinker interested in happiness, he devoted much time to the study of the problems pertaining to punishment and legislation He criticised English law and the ways of executing it He considered the criminal law of England as unjust and severe He desired punishment to be preventive of crime and also reformative, and pleaded that punishment should be in proportion to the offence He made a human approach to the problem of jail reform, and advocated a system of education and useful work for criminals

10 People Obey Government for Services According to Bentham, people obey the government not because a contract was made, but because it renders services and gives utility Thus Bentham is against the theory of natural rights and the Social Contract Theory Government owes a duty to the people for exacting loyalty and obedience from them It exists to make people happy and to reduce their pain, unhappiness or misery To promote

the happiness of one and all, government has to reward the good and punish the bad Government should pass laws in order to provide Security, Substance, Abundance and Equality, because people obey authority to realise these If government fails to promote people's happiness, it forfeits its rights to exist and continue

11 Advocate of Representative Institutions Bentham was a powerful advocate of representative institutions, for modern democracy is feasible only through them Sovereignty should be vested in the people, and the people must be given the freedom to elect representatives of their choice Bentham's utilitarianism marked the transition from autocracy to democracy

Great Influence of Bentham As Gettell points out, the influence of Bentham spread far beyond the frontiers of England, and made itself felt in several countries Mirabeau and other leaders in France felt the impact of his thought "Bentham's doctrines were widespread in Russia, Portugal, Spain, and parts of South America and his ideas were used by the leaders of the national movements that defeated the Holy Alliance and created new nations on the ruins of the Spanish and Turkish empires "[1] He was respected everywhere, and statesmen and leaders of other countries consulted him Maxey also pays an eloquent tribute to Bentham "By his merciless skepticism and cold analysis the preposterous fictions of history and logic by which the social contract philosophers bolstered up their theory of state were shorn of all respectability More forcibly and more clearly even than Hume or Spinoza he drove home the truth that the basis of political society is eternally con temporary"

D The Ideas of John Stuart Mill

Let us briefly examine the ideas of John Stuart Mill

Advocate of Reforms Like Jeremy Bentham, J S Mill revealed himself as a staunch advocate of reforms calculated to better the lot of the people Some reforms that he proposed were indeed radical He stood for (1) labour reforms, (2) univer al suffrage and women's suffrage, (3) proportional representation, and (4) compulsory education

Blending of Utilitarianism and Individualism In the thought of John Stuart Mill, the currents of utilitarianism and individualism blended Though utilitatianism was against *laissez faire* in state action, J S Mill spoke of both This was a contradiction in Mill's

1 R G Gettell *History of Political Thought* (1924) p 346
2 C C Maxey *Political Philosophies* (1959) p 468

thought Mill, one of the staunchest champions of liberty valued liberty more than other utilitarians As a champion of individualism, he upheld individual liberty as an invaluable asset

Distinction between Higher Pleasures and Lower Pleasures While Mill agreed with Bentham that the greatest happiness of the greatest number repre ents the highest good, he spoke of the quality of the pleasures He made a distinction between higher pleasures and lower pleasures Intelligent people, who have seen both types of pleasures always prefer the higher ones According to the oft-repeated saying of Mill, "it is better to be a human being dissatisfied than a pig satisfied, better to be a Socrates dis satisfied than a fool satisfied '

Self-Regarding and Other-Regarding There is another difference between Bentham and Mill The basis of the greatest happiness of the greatest number in Bentham's thought is self-interest, while in Mill's thought it is the interest of all Mill strikes a compromise between self-interest and interest of others and calls upon the individual to be impartial between his own interest and the interest of others According to him, *self-regarding and other-regarding* should go together Thus Mill's attitude to happiness is clearly superior to that of Bentham Mill powerfully explains the unavoidable connection between the well-being of the individual and the well-being of society He fixes his eyes on the better aims of the state, and looks down upon expediency in state policy

Great Champion of Democracy Like Bentham, Mill was a champion of representative government and democracy According to him, only in a good government, moral and intellectual qualities of the people are nursed, and people are trained for good citizenship As a great liberal, Mill stood for equality, and advocated the extension of franchise to women

E Evaluation of Utilitarianism

Let us briefly examine the merits and defects of utilitarianism

Merits The following are the merits of utilitarianism

1 Based on Practical and Human Considerations The theory is essentially based on practical and human considerations It served the actual interest of the public, and fared much better than the other theories whose approach was *a priori* and *doctrinaire* While theories of natural rights, social contract and idealism did little good to people in the realm of practical affairs, the utilitarian theory had solid achievements to its credit It was owing to the

utilitarians that political thought yielded concrete results as far as the people were concerned Utilitarianism is forth-right in marking out the goal of the state It makes no mysterious or mystic statements, which only philosophers can understand The theory lays great emphasis on practical ethics and public welfare Utilitarianism stood for political, social and economic justice

2 **Greatest Happiness Principle** The slogan *the greatest happiness of the greatest number* had a great appeal, which would not fall on deaf ears Utilitarianism has clearly shown that it is possible through proper legislation to introduce reforms for improving the condition of the people Prompted by utilitarians, the government in Britain introduced several far reaching reforms

3 **State Means to an End** The utilitarians have made it clear that the state is a means to an end, and not an end itself It is incumbent on the state to promote the happiness of all It is opposed to the idealist thought that the state is an ethical institution, and the individual should implicitly obey the state, the march of God on earth Thus the individual's personality is rescued by utilitarians from the inroads of the state

4 **Reforming Zeal** Utilitarians showed great reforming zeal Bentham and others made it clear in England that all was not well with the *status quo*, and the country needed sweeping reforms While Blackstone flattered the English law and the constitution, utilitarians pointed out the defects, and cried out for changes Bentham, who criticised the theory of natural rights, ridiculed them as "simple nonsense natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts" He rejected the theory of natural rights and advocated the principle of utility As regards English law, for which Blackstone had nothing but praise, Bentham said that it "was a shameless tyranny which worked only for the misery of the weak and poor, an elaborate mechanism for helping the educated and the powerful to keep down the ignorant and the oppressed" Many reforms, which Bentham advocated were introduced in Britain in course of time "In England, where law and administration have always been flexible, his ideas were gradually worked into the texture of law and the life of institutions, so that they at once promoted and reflected the transformation of society during the nineteenth century and framed a way of life now taken for granted "[1]

[1] John Bowle *Politics and Opinion in the Nineteenth Century* (1963) p 66

Defects The following are the defects of utilitarianism

1 *Materialistic* It lays emphasis on pleasure versus pain, and raises the importance of the material side of life without giving importance to spiritual and other aspects Human beings, according to utilitarians always think about happiness and judge every action on the basis of utility Utility looms large in the imagination of utilitarians The very fact that utilitarianism is based on hedonism shows how materialistic it is

2 **No Ideals** It is also said that utilitarianism does not go very far in leading mankind It provides no ideals whatsoever towards which human beings can turn their eyes, but merely aims at material happiness

3 **Pleasure Subjective** Critics point out that pleasure is subjective and not objective What is pleasure to one may be pain to another So it is incorrect to speak about universalistic pleasure and the greatest happiness of the greatest number Moreover, it is not possible, as Bentham claims, to calculate the pleasure and pain as a result of a certain action, and find out whether the balance is in favour of pleasure or pain

MAIN POINTS

1 **Meaning of Utilitarianism** Utilitarianism is based on liberalism What is useful is good Also known as altruistic hedonism An English school of thought

2 **Origin Growth and Features** 1 Hume s thought that the test of an *Institution lies in its utility The greatest happiness of the greatest* number Jeremy Bentham founder 2 Features Realistic. Self-regarding and other-regarding Based on hedonism Against natural rights

3 **Ideas of Bentham** 1 Founder of utilitarianism Stood for empiricism Against idealism Great zeal for reforms 2 Basic ideas of Bentham Pleasure the only good Measuring pleasure and pain. Everyone aiming at pleasure Need to increase overall pleasure Legislatures to act Pleasures and pains The greatest happiness of the greatest number Utility in state and criticism of Blackstone Criticism of English criminal law People obey government for services Advocate of representative institutions

4 **Idea of J S Mill** 1 Great advocate of reforms 2 Blending of utilitarianism and individualism 3 Difference between higher pleasures and lower pleasures 4 Self-regarding and other-regarding 5 Great champion of democracy 6 Mill s ideas better than Bentham s ideas

5 **Evaluation** Merits 1 Based on practical and human considerations. 2 *Greatest happiness principle 3 State means to an end 4 Reforming zeal* of utilitarians

Defects 1 Materialistic. 2 No Ideals 3 Pleasure subjective

CHAPTER 26

CAPITALISM AND DEMOCRATIC SOCIALISM

In modern times, several important forces have emerged, and capitalism is one of them Capitalism in the hands of selfish and exploiting industrialists and owners of key means of production became an unmixed evil As the curse of exploiting capitalism became a challenge to the very existence of those, who had no capital new "isms" rose to remedy the evils, one of the "isms" is socialism

I Capitalism

A Definition and Meaning of Capitalism

Let us briefly examine the meaning and features of capitalism

Private Ownership, Profit Motive, Use of Credit, Wage System and Consumer's Freedom Capitalism is a term, which got into usage in modern times, and it is not more than a hundred years old The features of capitalism are private ownership of means of production, profit motive, use of credit, wage system and consumer's freedom "Capitalism is a term applied to one of the fundamental systems of distribution of wealth, characterised by private ownership and control of the means of production, a free competitive market for the disposition of goods and services for profit and freedom of choice by the consumer "[1]

If we take capitalism as an economic system, in which conditions are congenial for getting money and power through the ownership of capital or means of production, we have to admit that there was capitalism in the ancient and medieval periods also Owners of large farms and other means of production deriving huge profit, and power were certainly capitalists But 'capitalism' as we understand it in modern times is linked with modern industrialisation, mostly by capitalism we mean industrial capitalism "Fundamentally capitalism is an economic order based

1 *The Encyclopaedia Americana* Vol 5 (1959) p 564

on the profit motive Therefore its leading characteristics are the private ownership of the means of production, their operation for pecuniary gain, their control by private enterprisers, and the use of credit and the wage system "[1]

The problems created by industrial capitalism in modern times engaged the attention of political thinkers

B Origin and Growth of Capitalism

Accumulation of Rents and Profits Modern capitalism which originated in the eighteenth century is the child of the Industrial Revolution (1750–1850) Rents of vast agricultural and urban lands, returns from money-lending accumulations and profits from trade, vast profits from joint-stock companies and banking institutions, and enormous returns from huge factories paved the way to modern capitalism

Rise of Factory System If we say that the Industrial Revolution began in England, we can also say that industrial capitalism also sprang up from the same country Large-scale production and division of labour became the order of the day in Britain and in the other countries, in which industry came to be mechanised Before the Industrial Revolution, production took place in places scattered far and wide but the new changes located large machines in big cities and towns Huge factories and industrial concerns rose in urban areas, which attracted people of the surrounding rural areas for industrial work "Also capitalism, in the modern sense, is based on machine production It has applied the great lessons of physics, chemistry and biology to the creation of technology, and technology has made possible mass production With such methods, capitalism, holding out the promise of the achievement of a life of abundance has populated, urbanised and standardised the world "[2] The factory system put enormous power in the hands of capitalists, who not only owned means of production, but also exercised much political power and commanded great social prestige

Capitalism in modern times grew side by side with rationalist individualism

C Nature of Capitalism

The following are the main features of capitalism

1 Private Ownership Individuals and not the state own the key means of production Capitalism believes that it is private

1 L M Hacker *The Triumph of American Capitalism* (1947) p 16
2 Ibid p 15

property that provides the necessary incentive to work and bring about technological progress Private individuals control the lives of a large number of people

2 **Market Economy** Market economy is another feature of the capitalist system A producer produces not to meet the needs of the family but the needs of a wide market, which may sometimes spread over the whole world There is specialisation of labour Employers, workers and consumers enjoy freedom The worker is free to pursue his own line of work, and similarly the manufacturer is free to choose his own kind of manufacture or trade The consumer is also given freedom to buy what he likes and wherever he likes Consumer sovereignty is one of the basic features of market economy in capitalism

3 **Free Competition** Free competition is a very significant feature of capitalist economy Competition, it is believed, is possible because all manufacturers, traders, workers and buyers are free to do what they choose In the capitalist system, it is believed that free competition brings out the best in every field

4 **Profit Motive** Capitalist economy is based on profit motive L M Hacker in *The Triumph of American Capitalism* (1947) speaks of the bulwarks of capitalism viz the absolutist national state, mercantilism as the public policy of absolutism and the protestant ethic[1]

D Drawbacks of Capitalism

The following are the drawbacks of capitalism

1 **Series of Abuses** Location of vast economic power, political power and social prestige in the same individuals led to a series of abuses, which resulted in great suffering to a bulk of the people in the state Most of the capitalists considered wealth as a source of power and personal advantage to the detriment of the majority of the people in society They converted the machine into an ugly engine of exploitation, and the Industrial Revolution became the source of all political social and economic ills as far as the vast majority of people were concerned The claims made by the champions of capitalism did not prove to be true, as in the market in the name of competition the big producer could easily overtake or destroy his weaker rival And there arose excessive concentration of wealth in a few hands And Smith's pet

1 Op cit pp 40-50

child Free Competition proved to be too mischievous to be allowed to grow freely without any control

2 **Class Conflict** Capitalism led to great class conflict Capitalists became excessively rich, and they got very wide scope to multiply their wealth not only in the avenues provided in their own country, but also in foreign countries Capitalists had stakes all over the world, as they made huge investments A handful of capitalists in every industrialised country got the best of everything in every field, and the gap between them and the ordinary people became wider and wider Employers and employees became antagonistic to each other, and worked at cross purposes

3 **Governments under Capitalist Control** Political power could be bought by capitalists Joint-stock companies having interests in industry, trade and commerce, banking, shipping mining and metallurgy, railways and insurance were strong enough to bend governments to their own selfish will Governments could not venture to act against industrial capitalists, who were ruthlessly exploiting the poor and the weak

4 **Ruthless and Vulgarised Exploitation** Millions of workers were thrown to the tender mercies of their capitalist employers They became wage slaves and were treated like tools to increase the riches of the rich Workers slaved for long hours for a pittance, and could not voice their grievances fearing cruel reprisals from their masters The workers sank in social status, and it seemed that neither their body nor soul could get any relief in capitalism a system which stood for merciless and vulgarised exploitation

5 **Unequal Opportunities** Capitalism not only brings about inequality of income and wealth, but also inequality of opportunity *Those, who have no capital are nowhere in an industrialised* society They do not have fair and adequate opportunities to work according to their ability, as capitalists seize all the good opportunities for self-aggrandisement

6 **Insecurity and Periodical Crisis** In capitalism, there are periodical breakdowns which result in unemployment and suffering Economic insecurity hangs like the sword of Damocles on the heads of the workers the instruments of production Crisis may be the result of over-capitalisation or cut-throat competition

7 **Tyranny of Price** Another bad result of capitalist system is tyranny of price Prices are dictated not by the needs of the

community, but by the demands of the rich Production primarily caters to the "needs" of the capitalists, production of commodities for use in the larger interests of the community is incidental

8 **No Social Purpose** Capitalist production is said to be unrelated to the real purpose of society What society needs is not produced, while what is not needed is produced in huge quantities

Reaction against Exploiting Capitalism The discontent and anger of helpless workers in all the highly industrialised countries soon got articulate expression They organised themselves, and started collective bargaining and collective action, violent or peaceful Violence alone yielded results in most of the cases, as capitalists were stubborn and refused to bend or budge an inch Unselfish and enlightened capitalists like Robert Owen were very few and far between This explains why generally reaction against exploiting capitalism was violent Socialism and communism are answers to the challenge of exploiting capitalism Large number of people were attracted to a movement, which was to fight against the capitalist system, in which the horses, dogs and pigs of the rich got a better deal than the half-starved, ill-clothed and badly housed people

II Democratic Socialism

A Definition and Meaning of Socialism

Let us briefly examine the meaning of socialism

Socialism Many-sided and Means Different Things To Different Men Few terms in political science have given rise to so much controversy as socialism that is because it is not a homogeneous concept and it is very difficult to define it Socialism has various facets, and it can be viewed from different angles Dr E Asirvatham says "One reason why it is very difficult to attempt an accurate definition of socialism is its many-sidedness Socialism ranges from schemes of profit sharing between the employer and the employee or capital and labour to a form of paternalism under which the state is expected to do everything for the individual" Norman Thomas who also stresses the difficulty of giving the precise meaning of socialism opines "The truth is that socialism like other great words, such as Christianity, has come to mean many and rather different things to different men I hould be willing as a beginning to accept the definition given in Webster's unabridged *International* Socialism (is) a political

and economic theory of social organistion, the essential feature which is governmental control of economic activities to the e[illegible] shall give way to cooperation and that the opportunities of l[illegible] that competition and the rewards of labour shall be equitab[illegible] apportioned "[1]

Joad Mentions Difficulties of Definition C E M Joad sa[illegible] that socialism is like a hat which has lost its shape, because every o[illegible] wears it He says that "it is a matter of some difficulty to gi[illegible] within a small compass a comprehensive account of socialism He outlines the following difficulties

(1) The term 'socialism' is used to denote both a body [illegible] doctrine and a political movement

(2) The body of socialist doctrine is not fully or even main[illegible] political

(3) "Socialists are divided into a number of opposing school[illegible] which are separated by acute differences both as regards the[illegible] aims and their methods "

Socialists not Sure of Stand People, who claim that th[illegible] are socialists themselves do not know all the principles, whi[illegible] they uphold, and are not quite sure of their stand A writ[illegible] remarks "If I am asked whether I am a socialist myself I cannot but frankly reply I do not know It all depends upon what one understands by socialism" Socialist thinkers lay parti[illegible] cular emphasis on the aspects of socialism, which they consider as most significant To make confusion worse confounded, socia[illegible] lism is hopelessly mixed with communism, though the two to make use of Ebenstein's words "represent two incompatible ways of thought and life as incompatible as liberalism and totalitarianism "

The best that can be done in the midst of these real diffi culties is to present a few definitions, to describe socialism and to explain its basic ideas It must be clearly noted, as Joad points out, that even descriptions of socialism differ considerably owing to different angles of approach

Definitions The following definitions present important ideas of socialism

Common Ownership and Collective Control "Socialism may be defined as a theory and a movement aiming at the collec

1 W Ebenstein *Modern Political Thought* (1960) p 636

2 *Modern Political Theory* (1953) p 39

tive organisation of the community in the interests of the mass of the people through the common ownership and collective control of the means of production and exchange "[1] Here the emphasis is on common ownership and collective control

Fellowship, Social System Common Ownership and Mutual Service "Socialism," according to G D H Cole "means four closely connected things—a human fellowship, which denies and expels distinctions of class, a social system in which no one is so much richer or poorer than his neighbours as to be unable to mix with them on equal terms, the common ownership and use of all vital instruments of production, and an obligation upon all citizens to serve one another according to their capacities" Cole lays great emphasis on common ownership and equality

Better Production and Distribution by Central Democratic Authority According to the *Encyclopaedia Britannica*, socialism is "that policy or theory which aims at securing by the action of the central democratic authority a better distribution and in due subordination thereto, a better production of wealth than now prevails" This definition underlines the importance of better production and distribution

More Perfect Distribution and Elevation of Humanity Prof Ely says "A socialist is one who looks to society organised in the state for aid in bringing about a more perfect distribution of economic goods and an elevation of humanity, the individualist regards each man, not as his brother's keeper, but as his own, and desires every man to work out his own salvation, material and spiritual "[2] Here the emphasis is on better distribution of economic goods and improvement of the condition of all individuals in the state

Theory, Movement and Way of Life against Capitalism Broadly understood socialism is a theory, movement and way of life opposed to the capitalist social and economic order, which is based on unrestricted individualism, private property and free competition It aims at promoting social and economic justice by regulating the economic activities of individuals for the common good

Abolition of Private Enterprise "Accurately defined, socialism means the abolition of private enterprise and the substitution

1 A Appadorai *The Substance of Politics* (1957) p 121
2 Quoted in J W Garner *Political Science and Government* (1955) p 435

of collective ownership and control, for the benefit of the whole society, of at least the principal instruments of production, distribution and exchange It involves the destruction of private investment and the profit system and the adoption of an entirely new standard for the distribution of wealth "[1] In this definition, abolition of private enterprise and introduction of collective ownership are emphasised

B Evolution of Socialism

Let us briefly discuss the evolution of socialism

Plato s Republic Political thinkers discover in Plato's *Republic* socialistic ideas for Plato speaks of the ruling class having no property of its own The "guardians of the republic" strive for the promotion of the welfare of the community They wield power, but they are prevented from owning private property Here it should be remembered that Plato's "communism' was more spiritual than economic Platonic communism did not apply to the whole community, but only to the ruling class

Judaism and Christianity Socialist ideas can be found in the *Old Testament*, which presents probably the first socialist code in the interests of workers, women and the weak Jesus Christ preached the principle of equality by emphasising on man's brotherhood side by side with God's fatherhood, and the early Christians were against the idea of "mine and thine" The Church in the Middle Ages stood for a way of life, which was against wealth, moneylending and commerce Several religious movements in the medieval period directed their activities against the desire to acquire wealth and condemned avarice and spoke in terms of austere life, in which poverty is to be shared "To the extent that socialism contains within itself an element of protest against social inequality—and no movement can call itself socialist unless it expresses that kind of protest—it is as old as western civilization itself both Greek and Jewish-Christian thought categorically reject the conception of wealth as the basis of the good life "[2]

More s Utopia In modern times with the outbreak of the Renaissance and the Protestant Reformation movements, a rational as against a religious attitude was developed towards the problem of inequality based on wealth The new spirit could be seen in

1 E M Burns *Ideas in Conflict* (1960) p 181
2 W Ebenstein *Today s Isms* (1958) p 194

Thomas More s *Utopia* (1516) The features of society pictured in More s *Utopia* are he following

(1) The three or four million inhabitants own no private property

(2) Elected officials guide production

(3) Life is simple and unostentatious

(4) People have plenty of food

(5) People are contented, and do not agitate for more than their due share

(6) Convicts, prisoners of war and foreigners work as slaves

Levellers The Diggers or Levellers, a radical group of Puritans in the seventeenth century spoke of ownership of land by the community The spirit of this movement was of deep significance, as it was directed against private landed property

Industrial and Intellectual Revolutions Socialism was clearly evolved in modern times, which saw the rise of rational thinking Original thinkers began to make out a case for social and economic justice, and strongly argued against the exploitation of workers, the actual producers of wealth The Industrial Revolution, which was attended by several ugly features gave opportunities for fresh and revolutionary thought to serious socialist thinkers The Industrial Revolution in Britain and the Intellectual Revolut on in France more or less at the same time prepared the ground for socialist thought

Use of the Term Socialism' Though these revolutions took place in the second half of the eighteenth century, the term *socialism* came to be used first only in the early part of the nineteenth century

Perhaps, the word *socialism* was employed for the first time by the *Poor Man's Guardian* (1833) The terms *socialism* and *socialists* were used by Robert Owen, the enlightened and benevolent capitalist and by the members of the Association of All classes of All Nations a society established at the instance of Robert Owen in 1835

Reybaud, the French writer borrowed the word from the British thinkers, and used it in his *Reformation Moderner* This gave wide currency to the term

Sir Thomas More, St Simon, Charles Fourier Robert Owen R H Tawney G D H Cole and Clement Attlee have been regarded as the leaders of the modern democratic socialist movement

Beginning by British Capitalist-Socialist Robert Owen Socialist ideas first crystallised themselves in Britain, a country in which the Industrial Revolution began England developed liberal institutions Democratic socialism cannot rise in a country, in which industrialisation has not been experienced for a considerable time, and in which liberal ideas have not struck deep roots If callous exploitation of wage slaves began in England, a humane attitude towards the exploited workers was also cultivated in the same country It may also seem strange that the thought to do economic and social justice to the worker dawned in the mind of Robert Owen, a British capitalist–socialist, who has been regarded as the father of British socialism Besides Robert Owen, there were others, who made contribution to socialist thought

Simon Great Source of Socialist Inspiration *In France* socialist ideas were conceived by Charles Henri De Saint Simon (1760–1825) His thought exercised great influence on the socialist movement Great men of the nineteenth century Bismarck and Marx in Germany Auguste Comte and Louis Blanc in France and John Stuart Mill and Robert Owen in England drew inspiration from his ideas This shows that those who were not in favour of socialism also felt the impact of his ideas. Maxey regards Simon as one of the formative influences of the nineteenth century political thoughts

Simon was a nobleman who joined the army in 1777 and proceeded to America two years later to participate in the American War of Independence (1776–83) He returned to France and took keen interest in the new ideas of the age in the company of eminent philosophers and scientists In 1789, the (French) Revolution began in his own land He did not take active part in the bloody Revolution but as a man of radical views gave up his title Simon had amassed a fortune but a time came when poverty and misfortune made him take a petty clerical job However penury did not dampen the spirit of his mind and he contributed through his *Reorganisation of European Society* new ideas to France and to the world

Simon s Ideas Simon s ideas can be briefly outlined as follows (They may be noted in the light of the fact that industrial capitalism had not reached the zenith at which exploitation of labour became most glaring and the gulf between the two classes was not so wide as it was later on)

(1) Society should be re-organised and instead of antagonism between capital and labour there should be co-operation

(2) Payment for work should depend on capacity and occupation Merit should be given consideration

(3) A positive government of scientists and not of philosophers should be established

(4) As property decided the social structure Simon attached much importance to the way in which it was used He was against functionless property and inheritance of property and advocated the establishment of industrial and productive farms

(5) He was in favour of communist dictatorship and had no faith in the concepts of liberty and popular sovereignty

Humane and Sympathetic Attitude of Robert Owen Robert Owen (1771–1858) the son of a saddler became a capitalist in Britain He called himself a manufacturer for pecuniary profit Unlike other capitalists he adopted a humane and sympathetic attitude towards workers and as the Managing Director of the New Lanark Mills he mixed capitalism with humanitarian considerations He did not pinch and peel workers But he realised that he could make profits even after paying reasonable wages to them He did not study intensely like Karl Marx and his liberal views were not the result of academic studies but of actual experience in his own industrial enterprises He had a high opinion of the British Constitution within whose framework he believed it was possible to bring about the desired changes in the social and economic fields G D H Cole describes Owen as shop-boy and manufacturer factory reformer and educationist socialist and co-operative pioneer Trade Union leader and secularist founder of ideal communities and practical man of business

Owen s Principles Practised The liberal views that he held regarding the reorganisation of society were not to remain as mere decorations but were to be actually applied to society He invested much in producer s co-operatives in England He established the Co-operative Colony of *New Harmony* in Indiana in North America and conducted his new experiment in which co-operation was to take the place of competition

Unfortunately his experiment failed and landed him in the loss of nearly four-fifth of his wealth His efforts as the Governor of the Community Settlement at Harmony Hall in Hampshire also failed in America In spite of his failures Owen did not lose faith in his ideas which he vigorously propagated after his return to England His new outlook was explained through the *Report to the Parliamentary Committee for the Relief of the Manufacturing Poor* in 1817 and in his *New View of Society*

Owen s Socialist Ideas Own s socialist ideas can be summarised as follows

(1) The end of government is to make the governed and the governor happy '

(2) Man is influenced by his surroundings which can be changed by him Men are not essentially bad Crime and degradation arise out of the human surroundings

(3) Education will go far in improving the lot of the people Owen says ' The best governed state will be that which shall possess the best national system of education

(4) There is misery owing to false notions

(5) A good social system can be developed through harmony and co-operation

(6) Evils in society cannot be wiped out suddenly These should be got rid of through love and fellowship and through the cooperation of the Government Parliament the Church and the People

(7) It is better to look to society rather than to the state for important changes

Owen s Failure but Father of Democratic Socialism R
failed to see through most of his noble plans as he was far in

especially critical rationalism and pragmatic utilitarianism"[1] It is necessary to note here that England evolved parliamentary institutions, and did not give a chance to the workers to stage a bloody revolution as was done in France in the eighteenth century and Russia in the twentieth

England moved with the times, and brought about a compromise between democracy and socialism Socialism was allowed to emerge peacefully without the need to have a bloody revolution Democracy is government by consent or public criticism, it stands for responsible rule as against autocratic governance Socialism is the regulation of the use of the means of production for the sake of the common good as against the narrow good of the individual Socialist control came in Britain peacefully Democracy tolerated the rise of socialist principles "As (Evan F M) Durbin (British labourite politican and professor, born in 1906) saw it, socialism was vastly different from a programme of reforms or ameliorative measures It would include these but they must come *after* and not before the socialisation of industry socialism would not be complete according to Durbin, without *egalitarian* measures or measures to accomplish the withering away of large incomes The devices he recommended for this purpose were capital levies and inheritance taxes"[2]

British Government Promoted Labour Welfare In Britain, there was no need for the workers to revolt on a mass scale against the Government, as the Government itself took the lead to promote the welfare of workers British soil was congenial to the growth of democratic-socialism, while on the other hand the soil in Russia and China was good for the seeds of Marxian socialism or totalitarian communism In Russia and China, government neglected the interests of the poor, and tried to suppress them The reaction of the people against the oppressive government was bound to be violent Revolutionary socialism rose, and its tide swept aside government

No High Priest for Democratic Socialism Democratic socialists do not have any high priest to whose name reference can be made William Ebenstein points out "Socialist literature in England has no Marx or Lenin who lays down the law for all time The most influential socialists thinkers in England have

1 *Today's Isms* (1958) p 194
2 E M Burns *Ideas in Conflict* (1960) pp 183-84

frequently been without any official position of party or govern ment, and their impact has been due primarily to their moral authority and felicitous literary style "[1] Communists in Russia and China always refer to their high priest, he may be Marx, Engels, Lenin, Stalin, Krushchev, or Mao Tse-tung Democratic socialists do not refer to such authorities or develop the cult of the indivi dual Similarly, one does not find in the rank of democratic socialists, the type of fanaticism so common among the commu nists Democratic socialism tolerates or even respects the opinion of others but totalitarian communism seeks to wipe out any opposition in a violent manner

We may take note of eminent writers in Britain, who contri buted to the origin and growth of democratic socialism

Tawney's Criticism of Functionless Property The influence of R H Tawney, the British democratic socialist in the first half of the twentieth century has been indeed great According to Ebenstein, ' many consider R H Tawney's *The Acquisitive Society* (1921) one of the great classics of English literature as well as of socialist thought " Tawney strongly criticises functionless property as a danger not only to society, but to legitimate pro perty itself Tawney is not against the right to property, but he is opposed to functionless property, the instrument of exploitation. Capitalism enables individuals to develop property, which they regard as a source of power and income, and not as an agency of social service Such property is called functionless The owner of functionless property thinks about himself, and constantly asks the question about the income and power property yield to serve his own ends he never bothers to ask the question regarding the use of his property to society as a whole Functionless property puts power in the hands of a few people, who exercise it over people, who have no power and to whom they are not responsible Thus it leads to tyranny

Tawney's Remedies against Functionless Property Tawney points out that the danger of functionless property can be got rid of by the following remedies

(1) Industry should be subordinated to the larger interests of the community as a whole

(2) People who render service should be honourably paid This is of great importance, as exploiting capitalists do not pay

1 *Modern Political Thought* (1960) p 582

honourably and adequately those who ought to be paid for their services

(3) People should not be ruled by an authority, which they cannot control Owners of industry should be responsible to those who are controlled by them

Rejection of Marxism and Acceptance of Democratic Socialism in Britain Britain rejected Marxism, and accepted democratic socialism The democratic socialist movement in Britain owes much to the ideas of Robert Owen, Sidney and Beatrice Webb, R H Tawney, H J Laski, G D H Cole, E F M Durbin and others Few people in England have become socialists owing to the teachings of Karl Marx According to Clement Attlee, in no other country Christianity supported socialism so much as in England "Avoiding both fascism and communism, this country, I believe, can afford to the world an example of how society can adapt itself, to new conditions and base itself on new principles without breach of continuity and without violence and intolerance "[1] *The Politics of Democratic Socialism* of E F M Durbin can be regarded as a great landmark in socialist literature in Britain " Rejecting the totalitarianism of Marxist revolutionary communism, Durbin was confident, in 1940, that not only would Britain be able to solve her economic problems within the frame work of democratic socialism, but that she would lead the world on the road to a new society of political freedom and economic equality "[2] According to William Ebenstein, religion, ethical and aesthetic idealism, Fabian empiricism and liberalism are the outstanding elements of British socialism

Change of Attitude by British Capitalists It was good that British capitalists changed their attitude with the times, and government also was influenced by the forces of democratic socialism Unlike capitalists in Czarist Russia, China and several other countries, they were conscious of the fact that stubborn exploitation of the masses would lead capitalism to ruin, when revolution would be inevitable Seeing the rapid growth of communism in Russia and China and the extremely lean chances for communism to rise in the USA and the UK one can draw the conclusion that strengthening or weakening communism lies very much in the hands of capitalists To get examples of capitalists, who lost

1 C R Attlee in Ebenstein s *Modern Political Thought* (1960) p 596

2 W Ebenstein Ibid p 584

everything (as they wanted to retain everything to serve their own selfish ends) one has to turn to countries, in which exploiting capitalism never climbed down from its ivory tower If communists got the smallest following in the United States of America and England, it was because of the change in the attitude of capitalism in these countries The change in attitude of capitalists and the presence of a strong middle class worked in favour of democratic socialism, as against communism

Poor Chances for Socialism in the USA In the USA, totalitarian communism got the least chances to stage an entry and socialism has never been able to strike roots (Americans dislike the word "socialist", and look with suspicion at socialists) The reason for this is not far to seek America has set up a standard of living, which developing countries like India cannot hope to reach even after implementing successfully ten five-year plans America has given her people opportunities, which socialism is only promising at present to people in other countries This explains why the ordinary American will not be tempted to join the ranks of socialists or communists Poverty is never pinching in the USA, on the contrary workers have amenities of life, which middle class people in many other countries can never dream of having Moreover social equality about which socialists talk so much is guaranteed by the American Constitution Americans feel that Marxism will undermine the economic foundation of capitalism and attack the very core of American democracy and American way of life There is a world of difference between economic conditions of workers in the USA and those in Russia and China

Enlightened Capitalism and State Regulation in the USA Enlightened capitalism, prosperity of workers and the pragmatic approach of the American Government did not provide any scope for Marxism American workers had no need to think of a bloody revolution America is supposed to be the stronghold of private enterprise, and any state-interference there will be strongly resented and opposed But even in such a country, state-interference in the larger interests of the public became unavoidable 'In the United States where for a long time the individualistic philosophy of Government was dominant, there has in later years been a steady and increasing extension of state regulation and of state aid by both the national and state governments"[1] For instance, during

1 J W Garner *Political Science and Government* (1955) p 440

the Great Depression, President F D Roosevelt's *New Deal* came to be regarded as "just and inevitable" In the USA as in Britain, there is a strong middle class Introducing socialism in the USA means reorganising the existing industrial system

True Spirit of Democratic Socialism in the USA The true spirit of democratic socialism is very much in evidence in the USA though the American economic system is regarded as "the last island of sheltered capitalist civilisation" There is no need for the entry of Marxism-Leninism in the USA, as the tyranny of functionless property as found in the Czarist regime in Russia is absent If Americans want a socialist spirit, they turn for inspiration to Sidney Webb or Tawney or Clement Attlee of Britain "While socialism has never found expression in a major national party in the United States, it has by no means remained without influence, the influence frequently being exercised indirectly rather than directly The leader of American socialism, Norman Thomas, a former minister of religion emphasizes *democracy* as the goal and process of socialism What socialists want now is not nationalisation, but socialisation, in which workers and consumers, rather than the state, directly participate in the ownership and management of a publicly owned industry"[1]

Democratic Socialism Weakens Communism A remarkable tendency that can be noticed about the spread of communism and democratic socialism is that the former gets weakened as the latter becomes stronger In Italy and France, communism got foothold as socialist movements got a setback Socialism is doing well in Britain, Scandinavia, Holland, Belgium Australia, New Zealand Chile, Uruguay and Israel "The most notable attempts to set forth general theoretical principles underlying this moderate and flexible programme for post-war socialists have been made by Otto Baurer and Karl Kautsky in Austria, Warner Sombart and Heinrich Stroebel in Germany Hendrik de Man in Belgium J B Glassier, Ramsay Mac Donald, H N Brailsford, and G D H Cole in Britain, and Norman Thomas in the United States These men declare their goal to be the suppression of a predominantly competitive by a predominantly collectivist system, but they place studious emphasis upon the gradualness, peacableness, reasonableness, constructiveness, and efficiency of a socialist movement towards that goal"[2]

1 W Ebenstein *Modern Political Thought* (1950) p 589

2 F W Coker *Recent Political Thought* (1957) p 131

Asian Regional Conference by ILO and the First Asian Socialist Conference When the Asian Regional Conference was held by the International Labour Organisation in Delhi in December, 1947, certain representatives decided to form a committee of con veners consisting of representatives of India, Burma, Indonesia, Malaya, Siam, Viet-Nam, Korea and the Philippines with its head quarters at Rangoon for preparing the ground for the First Asian Socialist Conference, which was held in Rangoon in January, 1953 "It was attended by 177 delegates and observers, 77 of whom came from India There were 15 from Burma, 27 from Indonesia and 30 from Japan "[1] Individual invitation was not given to the British Labour Party and other European parties Clement Attlee, who was once the Prime Minister of England, was at the head of the Socialist International Delegation, which attended the Asian Socialist Conference Jayaprakash Narayan and Asoka Mehta were the leaders of the Indian delegation

Socialists from Asiatic countries looked with suspicion at the Socialist International, as it was felt that there were imperialists and colonialists in it "There was dissatisfaction with the attitudes of some members of the Socialist International towards indepen dence movements past and present "[2] In spite of the misunder standing, efforts were made to reduce the gulf between the Socialist International and the Asian Socialist Conference At the Conference one could feel the strong current of neutralism The Conference declared the principles and objectives of socialism " the socialist state as well as socialist parties, have also the right in fact are duty-bound, to defend democracy 'democracy' was used in its ordinary non-Communist sense "[3]

Second Asian Socialist Conference The Second Asian Socialist Conference was held in the K C College, Bombay in November, 1956 S Rose makes a significant observation about socialism in his *Socialism in Southern Asia* (1959) " Socialism in Southern Asia is faced with the task of finding an answer to these (i e increasing production etc) and other questions in a political milieu which is itself novel and uncertain It has to compete with the forces of conservatism, capitalism communism and communalism The countries of Asia generally are more Left-inclined than Europe They have a much smaller infusion of individualism and in their

1 S Rose *Socialism in Southern Asia* (1959) p 7
2 Ibid p 10
3 Ibid p 11

anxiety to do a great deal in a short time are more disposed to adopt collectivist methods"[1]

D Socialism in India

Nehru's Lead India has accepted demoracy as a form of government and a way of life India became a Sovereign Democratic Republic in 1950 India has been bravely facing the challenge of poverty and misery on a large scale Under Pandit Jawaharlal Nehru's lead, India steered clear of the two rocks of exploiting capitalism on one side and totalitarian communism on the other Nehru who was Prime Minister for about 18 years (1947–64), moved with the times, and thought not for the moment only, but for the distant future too He knew full well that the road of democratic socialism alone would lead India to her goal of social welfare Nehru as a great leader of the national movement in India saw the role of exploiting capitalism and imperialism and the way in which they brought poverty and degradation to countries like India While Marxism had an appeal to him, he was opposed to the violence employed by revolutionary socialists Nehru thought that India needed *democratic* socialism to solve her problem of poverty and to avoid a bloody revolution Owing to this communists found lean chances in India Nehru in his Presidential Address to the 14th Session of the Indian National Congress in 1929 said at Lahore "I must frankly confess that I am a socialist and republican We must realise that the philosophy of socialism has gradually permeated the entire structure of society the world over, and almost the only points in dispute are the pace and the methods of advance to its full realisation India will have to go that way, too, if she seeks to end her poverty and inequality, though she may evolve her own methods and may adapt the ideal to the genius of her race"

Democratic Socialism under Prime Minister Nehru As Prime Minister (1947–1964) Pandit Nehru used his power, prestige and charismatic leadership to introduce democratic socialism in India It was owing to the democratic socialist attitude of Prime Minister Nehru that the Avadi Session of the Indian National Congress in 1955 accepted the goal of the Socialistic Pattern of Society The 68th Session of the Indian National Congress which met in January, 1964 at Bhubaneshwar also decided to follow the path of democratic socialism for bringing about a welfare state Mr K Kamaraj the President of the Congress spoke in terms of socialism without

1 Op cit p 2

loss of freedom Thus for the third time in 33 years the Indian National Congress declared socialism as its economic goal At the Bangalore Session of the Congress in 1969, a ten point socialist programme was drawn up But shortly after this session, the Congress broke up into two groups one led by Prime Minister Smt Indira Gandhi and the other by the Congress President Shri S Nijalingappa At Smt Gandhi's requisitioned meeting on 19th and 20th November 1969, the group decided to uphold the principles of the Avadi, Bhubaneshwar and Bangalore sessions of the Congress

Triumph of Moderate Socialism at Bhubaneshwar : After much discussion at the Bhubaneshwar Session, the moderate concept of socialism won, and the extreme radical elements did not press for the nationalisation of banks and state trading in food grains The Bhubaneshwar Session adopted the resolution committing the Indian National Congress to the goal of democracy and socialism President Kamaraj said "We hope we shall be able to establish a socialist society without class conflict and dispel the popular belief that in a socialist state men lose their natural freedom He wanted to examine whether the legislative and executive measures taken were in furtherance of the socialist goal The Government of India under Nehru's lead was aware of the fact that an alternative to democratic socialism is violent communism The best way of fighting against communism was to inject democratic socialist ideas into the country "The nature and content of democratic socialism cannot by any means be defined It is a broad framework wherein we have to fit in our ideas of democracy and socialism in tune with our own political background and cultural and spiritual heritage"[1] India at present is prepared to accept the services of capitalists not as masters but as servants of the state The economic planners in India inspired by Nehru's socialist spirit were prepared to allow the coexistence of the Private Sector and the Public Sector

India introduced Five Year Plans which are being guided by democratic socialist principles At present the Fourth Five Year plan is being implemented

Prime Minister Smt Indira Gandhi nationalised 14 major banks a little after the Bangalore Session of the Congress in 1969 However, in February 1970, the Supreme Court of India declared the Bank Nationalisation Act *ultra vires* of the Constitution The 'Young

1 M Bhaktavatsalam AICC Economic Review (Jan 9 1964) p 121

Turks" in the Congress led by Smt Gandhi were clamouring for the implementation of more and more leftist principles

Great Experiment in Democratic Socialism Great importance has been attached to India's democratic experiment The whole world is watching India's progress The communists feel bad that their ideas cannot sell easily as the Government itself is wedded to the policy of bringing about a socialistic pattern of society The significance of India's socialism lies in the fact that it wants to gladly settle down with democracy India turns to British democratic socialism for inspiration, and her traditions are such that she cannot welcome Marxism–Leninism The future of democracy in Asia and Africa depends much on how India implements her socialist programme in a democratic set up Those who scoff at Nehru's democratic socialism in the interests of unbridled private enterprise, do not know that if India gives no quarter to democratic socialism the country will be handed over to the communists as a free pasture

It is felt that the Indian National Congress has given shelter to crypto-communists and fellow communist travellers Many critics within and outside the Congress dubbed Mr V K Krishna Menon (who was Defence Minister in India in 1962) as a crypto-communist and sympathiser of China India's poor performance in NEFA against the Chinese aggressors led to the resignation of Mr Menon Mr Menon gave up his membership of the Congress in 1967, as he was denied the Congress ticket for the North East Bombay Parliamentary Constituency When Mr C Subramaniam the Interim Congress President of the faction of Mrs Indira Gandhi appointed in November 1969 Mrs Nandini Satpathy, Mr Chandrajit Yadav and Mr K R Ganesh (who were previously cardholders of the Communist Party) as members of the Congress Working Committee, large number of people said that the Prime Minister and the Congress President were encouraging Marxists

Socialist Parties in India The Socialist Party was organised in 1934 within the framework of the Indian National Congress This party separated itself from its parent body, and dropped out the word Congress from its name This party fared badly in the First General Election in 1952, and the next year Acharya Kripalani's Krishak-Mazdur Praja Party and the Socialist Party were merged into a new party called the Praja Socialist Party [1] As the Congress

1 Several socialists withdrew from the PSP and formed the new Socialist Party in 1955 On May 8 1964 the PSP and the SP agreed to merge

itself is wedded to socialist ideas, socialist parties in India cannot do well There is little wind in the sails of socialists as is evident from the results of the Third General Election held in 1962 While the Indian National Congress annexed 356 seats in the Lok Sabha the Praja Socialists got only 12 and the Socialists secured 6 The Communists won 29 seats and in strength came next to the Congress In the Fourth General Election of 1967, the Congress won 281 seats SSP 23, CPI (R) 22, CPI (M) 19 and PSP 13 in the Lok Sabha

E Basic Principles of Democratic Socialism

The following are the features of democratic socialism

1 **Against Selfish Indvidualism** Socialism lays great emphasis on the importance of the larger interests of society as a whole, as against the narrow and selfish interests of the individual It is against individualism or *laissez faire*, which allows the individual full scope to do whatever he likes regardless of the welfare of the community Socialism wants the state to regulate the activities of the individual so that the individual may not become a stumbling block in the path of social welfare

2 **Cooperation instead of Competition** Socialism aims at eliminating exploiting capitalism with its evil corollaries Free competition which works havoc in a capitalist society is to make way for co-operation Robert Owen appealed to the employers and the employees to co-operate with each other Co-operation will do away with antagonism between the employers and the workers There will be social amity instead of unrest and discord

3 **State to Suppress Anti-Social Activities** The state must act to suppress the anti-social activities of private producers, who may bring about artificial shortages or unecessarily boost up prices to the detriment of the whole community The state has to intervene to do justice to the people and introduce necessary legislation to provide equitable opportunities of life to all

4 **Principle of Equality** Socialism stands for the principle of equality The state should prevent the concentration of wealth in the hands of a few individuals so that the gulf between the rich and the poor classes may not be wide Democratic socialism does not aim at establishing absolute equality which is impossible to realise but it aims at doing justice to the individual It sees that the fruits of his labour are not robbed by his employer or anybody else In Britain, for instance, the gulf between the income of the

rich and that of the poor is not very wide as in some other countries Socialism works for breaking the chain of material hardships of the less fortunate members of the community

5 **State Control over Means of Production** Democratic socialism stands for the common ownership of important means of production, which are to be utilised for the common good All means of production may not be brought under state owner ship, but reasonable state control is to be exercised over all means of production

6 **Rights Upheld** Democratic socialism allows individual freedom and upholds different kinds of rights It does not exercise coercion in the cultural and religious fields The individual is free to lead his own way of life entertain his own views, and practise his own religion without any outside interference (Under a communist government we find totalitarianism and regimentation of life)

7 **Widening Base of Democracy** Democratic socialists desire to widen the base of democracy If democracy is to be real, it should go far beyond the frontiers of politics Unless democratic principles are applied to production and distribution, democracy will remain a sham

8 **Collective Ownership not Applicable to Consumption Goods** Socialism stands for equality of opportunities and sets its face against the ownership of land, factories and other means of production by a few at the cost of the community It must be clearly noted that democratic socialism is not against all forms of private property, but only against privately owned property, which becomes the means of exploitation Socialism allows the ownership of small plots of land, houses and other limited property, as these cannot be put to anti-social uses Socialism means col lective ownership of the large means of production, and it is not applicable to goods of consumption

F An Estimate of Democratic Socialism

Let us briefly examine the merits and defects of socialism

Merits The following are the merits of democratic socialism

1 **Upholds Dignity of Human Personality** Democratic socialism believes in the dignity of the human personality It creates conditions, which are found neither in an exploiting capit economy nor in a totalitarian communist economy It

for liberty and equality, and allows individuals to enjoy all kinds of rights

2 **Upholds Social Good** It puts society above the individual, and considers the good of all as something superior to the mere good of the individual

3 **Eliminates Evils of Capitalism** It eliminates the evils of capitalism like concentration of wealth in the hands of a few, destructive competition overproduction and wasteful advertisement

4 **Property as Agency of Service** It eliminates the tyranny or misuse of private property Property is not to be an instrument of exploitation, but an agency of service

Defects The following are the defects of democratic socialism

1 **Stepping Stone to Totalitarianism** In the name of democratic socialism excessive power may be put in the hands of the government and socialism may become a stepping stone to totalitarianism The way in which the government in India is restricting the freedom of the individual and abridging fundamental rights has created suspicion and fear in the minds of the people that totalitarianism is subtly effecting its entry through the back door The critics of India s socialism point out that the way is being cleared for statism It is also said that the individual loses his liberty as more and more restrictions are imposed on him by power intoxicated officials

2 **Little Incentive to Produce** As the means of production are increasingly being taken over by the state, the incentive to produce more and more is gradually decreased If the idle are treated on par with the diligent and industrious, the latter will be discouraged

3 **Inefficiency** Under democratic socialism, inefficiency increases, and volume of production goes down Wtih the absence of competition, quality in production also deteriorates

4 **Red-tapism and Corruption** As the state undertakes to do what private enterprise generally does a wide scope is created for red tape, bribery and corruption

5 **Degeneration of Character** As individualism is discouraged and individual freedom is curtailed, there is the possibility of degeneration of the individual's character

6 **Hardship to Consumer** Under socialism the consumer's sovereignty disappears The consumer will have to adjust his

needs to production, and he may be called upon to undergo great hardship and privation

7 **Materialistic** Socialism is also criticised as utilitarian and materialistic, and it may not care much for ethical principles

MAIN POINTS

1 **Meaning of Copitalism** An economic system having private owner ship profit motive use of credit wage system and consumer s freedom

2 **Origin of Capitalism** Child of the Industrial Revolution Emergence of factory system Large scale production and division of labour

3 **Features** 1 Private ownership 2 Free competition 3 Market economy 4 Profit motive

4 **Drawbacks of Capitalism** 1 Insecurity and periodical crisis 2 Class conflict and social disharmony 3 Ruthless exploitation of the poor 4 Unequal opportunities 5 Capitalist control over government 6 Tyranny of price

5 **Meaning of Democratic Socialism** It is many-sided Means different things to different men Reaction against exploiting capitalism Socialists not absolutely sure of meaning Common ownership and collective control Better production and distribution by central democratic authority A theory and way *of life again t capitalism*

6 **Evolution of Socialism** Social principles in Plato s Republic In Jewish and Christian scriptures In More s Utopia The movement of Levellers Product of industrial and intellectual revolutions Use of the word Socialism for the first time early in the 19th century Views of Simon Owen Fourier and others

7 **Democratic Socialism in England** Origin and growth of socialism in England in an evolutionary way No chance for revolutionary socialism in Britain Tawney s criticism of functionless property No high priest like Marx for demo ratic socialism Change of attitude by British capitalists In USA also Marxism has poor chances Prosperity in America state regulation and enlightened capita lism True spirit of democratic socialism in America Democratic socialism weakens communism Spread of socialism in Asia Asian Socialist Conferences

8 **Democratic Socialism in India** Nehru s lead Decisions favouring Socialistic Pattern of Society at Avadi Bhubaneshwar and Bangalore Sessions of the Congress Five Year Plans to have socialistic pattern

9 ***Basic Ideas of DS*** *1 Against selfish individualism 2 Cooperation* instead of competition 3 Suppression of anti social activities by the state 4 Principle of equlity 5 State control over means of production 6 Widening base of democracy 7 Collective ownership not applicable to consumption goods

10 **Estimate of DS** Merits 1 Upholds rights 2 Promotes social good 3 Property as agency of service 4 Eliminates evils of capitalism Defects 1 Stepping stone to statism and totalitarianism 2 Little incentive to production 3 Inefficiency red-tapism and corruption 4 Hardship to consumer 5 Materialistic

CHAPTER 27

COLLECTIVISM OR STATE SOCIALISM

A Meaning of Collectivism

Let us briefly discuss the meaning of collectivism

Comprehensive Schemes of Authoritative Control like Socialism Communism Syndicalism and Bolshevism Like several other terms in political science, collectivism cannot be precisely defined Collectivism is a form of socialism, which rose as a reaction against the extreme individualism of the nineteenth century ' Collectivism is the imposing word to be set over against individualism It is, broadly a term for a trend in social development, a programme of economic reform a theory of general welfare and a utopian order for mankind technically a general label for comprehensive schemes of authoritative control such as Socialism, Communism, Syndicalism and Bolshevism and specifically a name for the trend away from the extreme *laissez faire* of the nineteenth century '[1] Collectivist principles can be found in the works of Eduard Berstein in Germany Jean Juares in France, Karl Branting in Sweden and Eduard Anseel in Belgium It is not so radical as revolutionary socialism, communism, syndicalism or anarchism

State to Promote Common Good Collectivism wants to employ the state for the promotion of the common good, as against the individual good advocated by individualists Collectivists do not want to abolish the state but desire to retain it for getting rid of the evils of capitalism, private property and competition Collectivists do not regard the state as an evil like extreme individualists they consider the state as a positive good which can be employed to serve the collective good They give a very wide scope to the activity of the state unlike individualists, who like to have the minimum of state-interference

The state functioning according to collectivist principles can bring about the social economic, moral and intellectual

1 Encyclopaedia of Social Sciences Vols III & IV (1957) p 133

development of the community While extreme individualism can be linked with the concept of the police or authoritarian state, collectivism can be connected with the idea of a welfare state Revolutionary socialists or communists are anti-state from the long range point of view, as they want the state to wither away, and anarchists do not want the state at all Thus both are anti-state, on the other hand collectivists are pro-state, and they firmly believe that state action alone can remove exploitation and promote welfare

Better Production and Distribution of Wealth The definition of socialism as given in the *Encyclopaedia Britannica* is more or less applicable to collectivism Socialism is "that policy or theory which aims at securing by the action of the central democratic authority a better distribution, and in due subordination thereto a better production of wealth than now prevails "[1] As Prof Ely points out, a collectivist is "a person who looks to society organised in the state for aid in bringing about a more perfect distribution of economic good and an elevation of humanity ' Prof F W Coker in his *Recent Political Thought* (1937) clearly explains what collectivism is " Collectivism is as vague [a word as individualism, but there is perhaps no better term to designate the sort of ideas that we consider in this chapter The collectivist, as we use the term, rejects, on the one hand, the socialist doctrines of determinism, labour-created values and class war, he recognises that differences in wealth create divisions of the community into different and often opposing political groups, but discredits the doctrine of a clear-cut distinction of classes and a continual antagonism between them "[2]

B Objectives of Collectivism

Public Ownership and Control of Main Industries and Services, Democratic Control, and Minimum wage The main objectives of collectivism are the following

(1) to abolish private ownership of the means of production,

(2) to bring the main industries and services under public control and ownership,

(3) to press industry in serving the needs of the community as a whole and not the interests of a few

1 Quoted in C E M Joad *Introduction to Modern Political Theory* (1953) p 45
2 Op cit p 546

(4) to eliminate the incentive of private profit in favour of the motive of social service, and

(5) the possession and control of the chief factors of production under the central *democratic* authority and not under private capitalists or workers

Means of production, which are nationalised are to be under democratic control Values in society are created by society, and therefore the whole society should have them This is to ensure better production and better distribution of wealth There should be a national minimum wage for workers, and equal pay for equal work There should be no unemployment and it is the task of the State to provide work Collectivists desire to reduce drastically inequality in income by introducing a highly progressive system of income tax Hence this type of socialism is called State Socialism, and it differs from Syndicalism and Guild Socialism

Why Collectivism Collectivists justify their plans on the following grounds

(1) The defects of the prevailing political structure can be rectified only through collectivism

(2) Collectivism assures the welfare of all, while capitalism provides comforts and conveniences only to a few

(2) The present structure, political, social and economic brings about starvation in the name of the sanctity of private property and contract in fact, it is these that spell sufferings on the masses of people The only solution is to abolish private property, the instrument of exploitation, and introduce state ownership State ownership implies the control of industry and important means of production in the hands of the central government and local self-governing authorities The collectivists are aware of the danger of overcentralisation of power, and hence they favour investing power regarding local matters in the hands of the local authorities

(4) Land, mines and such other means of production, which are the gifts of nature and are limited, should not be exclusively in the hands of a few The state should own them, and make the best use of them in the interests of all

C Methods of Collectivists

Collectivists propose the following methods for realising their aims

1 Peaceful Methods and Gradualness Democratic methods are to be pursued to bring about chan~ ~ gradual and peace

ful manner C E M Joad says "True to the biological conception of society as a social organism, Collectivist Socialists have insisted that society is capable only of gradual change, and that each change must be conditioned by the nature of the social structure that preceded it From this point of view it is essential to start with what exists and allow the present to decide the direction, as well as the rapidity, of the steps which are taken into the future "[1]

2 **State not to be Overthrown** Collectivists are against the abolition of the state The existing state is not to be overthrown, but is to be utilised for making the proposed changes

3 **Dissemination of Ideas** Those, who hold collectivist views should disseminate their ideas and seek to capture power They should employ all political, constitutional and educational methods to prepare a ground for a slow and evolutionary change

4 **Organization of Party** Collectivists should organize a party of their own, which must have a majority in the legislature It is then only it can form a government, and introduce the necessary legislation for making collectivism a reality Unlike communists, collectivists are for the ballot box, and are against the bullet

D Evaluation of Collectivism

Let us briefly note the merits and defects of collectivism

Merits The merits of collectivism are the following

(1) It stands for the welfare of all and not for the welfare of a few

(2) It is realistic, and it desires to make the best use of the state for the collective good

(3) Unlike communists, collectivists are against revolutionary and violent methods They believe in peaceful and constitutional changes

(4) While they want the central democratic authority to own and control important means of production, they are prepared to bring the local self governing authorities in the picture, and give them the necessary powers

Defects The following are the defects of collectivism

(1) All the charges levelled against socialists in general can also be levelled against collectivists

(2) Collectivism kills incentive to produce more, as important means of production are nationalised

1 *Introduction to Modern Political Theory* (1933) p 55

(3) Collectivism is synonymous with statism The state assumes all powers in the name of social welfare

(4) The individual will in course of time lose all his liberty, and ultimately become the tool of the state

(5) Collectivism allows totalitarianism an entry through the back door Though it stands for changes by persuasion through normal constitutional means, human nature being what it is, collectivists, who form a strong party will seize government, and do whatever they like

(6) While on one side collectivism gets rid of the evils of private property, on the other hand, it creates the evils of bribery, corruption, favouritism and red tape

(7) It is also said that state socialism will be really state capitalism The possibility of a few people capturing power and all means of production cannot be ruled out

MAIN POINTS

1 **Meaning of Collectivism** Comprehensive schemes of authoritative control like socialism communism syndicalism and Bolshevism State to promote common good Better production and distribution of wealth Public ownership and control of main industries and services Democratic control Minimum wa e.

2 **Objectives** Abolition of private ownership of means of production Nationalisation Better produc ion and distribution All these would eliminate the defects of the existing social political and economic structure

3 **Methods** State not to be overthrown but to be used for collective good Peaceful methods and gradualness Dissemination of ideas Organi ation of party

4 **Merits** 1 Social welfare 2 State to be used for collective good 3 Peaceful methods 4 Against overcentralisation

5 **Defects** 1 No incentive to produce more 2 Statism 3 Totalitarianism through the back door 4 Evils of state capitalism

CHAPTER 28

FABIANISM

A Definition and Meaning of Fabianism

Socialism through Evolutionary Method Fabianism is one of the forms of socialism aiming at the promotion of the welfare of society through slow, evolutionary and democratic methods "Perhaps the most important variety of contemporary socialism which does not trace the paternity of its doctrines to Marx is Fabian socialism The principal sources of Fabian socialism were British and American They included the writings of David Ricardo, John Stuart Mill, and Henry George The most dominant idea derived from these sources was the premise that most forms of unearned wealth are created by society "[1] Such a type of socialism could originate and grow only in a country like England, whose people are given to democratic methods of persuasion and constructive work

Fabianism cannot succeed in a country in which there is no middle class and the people are illiterate and ignorant, the intellectual soil of England proved to be quite congenial for the birth and growth of Fabianism

B Origin of Fabianism

Establishment of Fabian Society Fabianism originated in the last quarter of the ninteenth century in Britain In 1882, a few intellectuals in London decided to study ethics under Thomas Davidson, an American visiting professor They thought at first that all reforms should begin with self-reform, but later on it seemed to them that self-reform through meditation would take a long time, and social reform was more important This change of attitude led to the establishment of the Fabian Society Among its founders were luminaries like G B Shaw, Graham Wallas [illegible] Bland Edward R Pease, H W Massingham, Annie Besant

1 E M Burns *Ideas in Conflict* (1960) p 167

Webb and Sidney Oliver These scholars bent on far-reaching reforms to solve the problems of the time established a society called the Fabian Society on January 4, 1884 Ramsay Mac Donald was also an eminent Fabian H G Wells was strongly influenced by Fabianism, and for a brief period he was a member of the Fabian Society Beatrice Webb, Keir Hardie, G D H Cole, Pethick Lawrence, Chiozza Money, Stewart Headlam, J Campbell, Emil Davis, Harold Laski, R H Tawney, Leonard Wolfe and Herman Finer also became Fabians Thus the Fabian Society could boast of having on its rolls eminent scholars, administrators and statesmen

Fabian Society to Wait Patiently for Right Time The society was named after Fabius Cunctator, the dictator in ancient Rome who followed peculiar tactics of studied slowness against Hannibal of Carthage When Hannibal invaded Italy, Fabius Cunctator went on following delaying tactics, as he felt that the Romans were not in a position to strike successfully against Hannibal The Romans were to temporise and hit out at the right time The principle of the Fabian Society was "For the right moment you must wait as Fabius did, most patiently, when warring against Hannibal though many censured his delays, but when the time comes you must strike hard as Fabius did or your waiting will be in vain and fruitless '

Extensive Study, Research and Dissemination of Ideas The Fabian Society was committed to intensive and extensive studies and research In 1906, the Fabians started the Fabian Summer School to have lectures and discussions in politics and economics The Fabian Society started the Fabian Research Department in 1912 to study the various social and economic problems created by individualism and capitalism 'The objects of the Fabians have been to spread the socialist doctrine as they understand it, throughout the educated middle class and to persuade the national and local governments of Great Britain to put the doctrine gradually into practical operation "[1]

C Basic Ideas of Fabianism

The following are the features of fabianism

1 Socialist Members The Fabian Society had democratic socialists as its members They aimed at emancipating land and

1 F W Coker *Recent Political Thought* (1957) p 102

industrial capital from individual and class ownership Ownership of land and industrial capital was to be vested in the community as a whole

2 **Elimination of Private Property** Fabians aimed at the extinction of private property in land and at the prevention of the appropriation of rent by individuals Fabians considered rent as the price paid for permission to use the earth

3 **Industrial Capital not to be Monopoly** The administration of industrial capital as far as possible should be transferred to the community Such transfer they considered essential as industrial capital had become a monopoly in the hands of a class of pro prietors on whom the majority depended for their livelihood These proprietors did not do justice to society as a whole

4 **Reward to Labour** Labour should be rewarded The idle class living upon the sweat of others can be eliminated, when rent and interest are not allowed to go into their pockets, but are made the rewards of labour

5 **Propaganda of Socialist Views** The Fabian Society desired to conduct wide propaganda of socialist views, which would bring about great social and economic changes, and provide equality of opportunity to all Propaganda would change the minds of the people in favour of the required changes

England experienced great economic progress and prosperity, thanks to the Industrial Revolution The Revolution spread from England to other countries, and as a result England had to face competition Particularly, British agriculture suffered much owing to competition The raising of tariff walls by European countries also hit the British producer Such factors explain why the tide of British prosperity started ebbing in the last quarter of the nineteenth century It was at this time that the Fabian Society started its activities Fabian thought was inspired by thinkers like Owen, Marx, Proudhon, Lassalle, Adam Smith, Ricardo, J S Mill and Cairnes

Justification of Fabianism Fabians justified the type of socialism they advocated on various grounds viz historical ground, industrial ground, economic ground, moral ground and incentive ground

1 Historical Ground

History Showing Social Dynamism, Failure of Individualism and Progress of Socialism Sidney Webb elucidated the historical

Webb and Sidney Oliver These scholars bent on gradual reforms to solve the problems of the time established a society called the Fabian Society on January 4, 1884 Ramsay MacDonald was also an eminent Fabian H G Wells was strongly influenced by Fabianism and for a brief period he was a member of the Fabian Society Beatrice Webb Keir Hardie G D H Cole Pethick Lawrence Chiozza Money Stewart Headlam J Campbell Emil Davis Harold Laski R H Tawney Leonard Woolfe and Herman Finer also became Fabians Thus the Fabian Society could boast of having on its rolls eminent scholars administrators and statesmen

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Clarke makes out a strong case for bringing all joint stock companies and combines under public ownership

3 Economic Ground

Economic Rent Should Go to the Community G B Shaw dealt with the justification of socialism on economic grounds He criticises rent, which according to him is "the difference between the fertility of the land for which it is paid and that of the worst land" Under private property, one who works the least gets the most, and one who works the most gets the least In modern times, great fortunes were built not by hard work, but by apprecia tion in the value of land and of the stocks of corporations The increase in value should be regarded as the contribution of the entire society, and not as the contribution of owners of property "For all practical purposes, the owners have been able to sit with folded hands, or to devote their lives to golf and fox-hunting, and the rise in values has occurred just the same"

Private property has brought about invidious distinctions between the class that has much and the class which has very little Economic rent should not go into the hands of the indivi dual, but into the hands of the community

Shaw speaks of the helplessness of workers, who breed like rabbits, and have no control over their labour Their condition is bound to be miserable Such poverty exists in society in the midst of plenty

4 Moral Ground

No Moral Basis for Private Property Sidney Oliver dealt with the moral side of socialism According to him, socialism is not the enemy but the child of individualism Socialism is noth ing but individualism which is "rationalised, organised, clothed and in its right mind"

Private property as it exists now has no moral basis, and capitalists do not work for what they get Capitalism brings about the degradation of human character and misery to the masses of people

5 Incentive Ground

Elimination of Social Injustice and Creation of Incentive to Work Dr Mrs Annie Besant expresses herself very strongly against the lust for wealth in a system in which all people do not have the ecurity of livelihood The struggle to secure money has

ground of socialism According to him, the nineteenth century witnessed the almost complete failure of individualism and the continuous record of the progress of socialism History is a wit ness to social dynamism and failure of individualism Society is dynamic and not static, and this has been proved by the writings of Darwin Comte and Spencer Utopian socialists are wrong in asserting that society is static and represents a perfectly balanced equilibrium without the necessity and possibility of future organic changes Every thinker looks forward for the gradual evolution of a new social order

Sidney Webb lays great emphasis on the importance of democracy, as it is acceptable to a majority of people and brings about changes in a peaceful and gradual manner without the danger of any serious social dislocation He believes that the changes that Fabians propose through democracy will be acceptable to people in England, who are u ed to constitutional and peaceful ways

Webb draws the attention of the world to exploitation of men, women and children by industrial capitalists and the utter failure of individualism England, according to him, provides a historical basis to socialism by accepting changes which are peace ful, gradual, ethical democratic

2 Industrial Ground

Capitalists Stopped Working and Became Mere Rent and Interest Collectors Among Fabians, William Clarke justified socialism on industrial grounds According to him, in the begin ning, the capitalist worked hard and earned the wages of his superintendence, which were very high But gradually he handed over his work to others paid by him, and gave up the position he previously occupied Thus the capitalist ceased to be useful to the community, and continued as a mere receiver of rent and interest Through joint stock companies, capitalists exercise control over regions they never see or visit and through their hired managers are able to reap the maximum harvest of profits Managers have to extract as much profit as possible to please their capitalist bosses

Clarke also points out that capitalism is against democracy, and hence the two cannot go together Unless capitalism is restrained, democracy cannot be meaningful After capitalism is developed, society has no need of the capitalist and he can be got rid of in the same way in which a slave driver or feudal baron is eliminated

Clarke makes out a strong case for bringing all joint stock companies and combines under public ownership

3 Economic Ground

Economic Rent Should Go to the Community G B Shaw dealt with the justification of socialism on economic grounds He criticises rent, which according to him is "the difference between the fertility of the land for which it is paid and that of the worst land" Under private property, one who works the least gets the most, and one who works the most gets the least In modern times, great fortunes were built not by hard work, but by appreciation in the value of land and of the stocks of corporations The increase in value should be regarded as the contribution of the entire society, and not as the contribution of owners of property "For all practical purposes, the owners have been able to sit with folded hands, or to devote their lives to golf and fox-hunting, and the rise in values has occurred just the same"

Private property has brought about invidious distinctions between the class that has much and the class which has very little Economic rent should not go into the hands of the individual, but into the hands of the community

Shaw speaks of the helplessness of workers, who breed like rabbits, and have no control over their labour Their condition is bound to be miserable Such poverty exists in society in the midst of plenty

4 Moral Ground

No Moral Basis for Private Property Sidney Oliver dealt with the moral side of socialism According to him, socialism is not the enemy but the child of individualism Socialism is nothing but individualism which is "rationalised, organised, clothed and in its right mind"

Private property as it exists now has no moral basis, and capitalists do not work for what they get Capitalism brings about the degradation of human character and misery to the masses of people

5 Incentive Ground

Elimination of Social Injustice and Creation of Incentive to Work Dr Mrs Annie Besant expresses herself very strongly against the lust for wealth in a system in which all people do not have the security of livelihood The struggle to secure money has

become terrific, and wealth can get anything Money stands for all credit and honour, and poverty and misfortune bring disgrace and discredit Such a social and economic system in which the rich alone have the incentive to work should be changed, and the ordinary people also should be given a strong incentive to work Everywhere one finds the tyranny of monetary gain The present social injustice should be eliminated, and every individual should feel that life is worth-living Mrs Besant holds out the poverty of the masses of people and want of proper incentive to work before the attention of the world ' The desire to excel, the joy in creative work, the longing to improve, the eagerness to win social approval, the instinct of benevolence, all these will start into full life, and will serve at once as the stimulus to labour and the *reward of excellence* "

Methods of Fabians The following are the methods of Fabians

1 **Against Violence** Fabians are dead against revolutionary and bloody methods, and hence they are against communism and the violence associated with it The methods of Fabians are sober and dignified As they were free from class bias, hatred and fanaticism, they were able to cut much ice in Britain They do not believe in the materialistic interpretation of history, *dialectical* materialism, class war and the theory of surplus value

2 **State not to be Overthrown** Fabians would like to use the state for the good of the community They are for the continuation of the state, and unlike communists, they do not speak of its withering

3 **Emphasis on Social Reform** Fabians regard themselves as social reformers and not socialists in the strict sense of the term Fabian methods are evolutionary and extremely moderate

4 **Mild Criticism of Capitalism** The way in which capitalism is criticised by Fabians is quite different from that of communists While the communist attack on capitalism is most devastating, the Fabian onslaught is subtle

5 **No Mass Appeal** Guided by a sense of moderation, Fabians spread their ideas through their literature There is nothing in Fabianism like the mass appeal that Marx or Engels could command Their appeal is meant not for the masses, but for a small group of people, who have influence in public life and who are reasonable

6 No Party and Dogmas Fabians do not have a party as such, and they believe that in all groups and parties there are people who will be responsive to their views Fabians do not have dogmas or principles to swear Their emphasis is on questions of fact They feel that questions of fact matter more than questions of principle

Though Fabians addressed themselves to a small circle of influential and reasonable people, their ideas spread rapidly in Britain Many people in Britain were easily won over by Fabianism, and the results of the election in 1945 in Britain testified to the tremendous popularity of Fabianism It is significant to note that 229 members of Parliament were Fabians

D Evaluation

Fabianism as a separate school of political thought has ceased to exist, as the programme of Fabians came to be identified with that of the Labour Party in Britain

Let us briefly discuss the merits and defects of Fabianism

Merits Fabianism has the following merits

1 Great Influence in Britain The Fabian Society having within it ranks eminent men with international reputation exercised great influence in England, and the intellectual class in Britain was very much impressed by the evolutionary and sober methods of Fabianism By their sober and dignified methods, the Fabians were able to push forward socialist ideas This was no small achievement in view of the fact that socialism was held in deep suspicion by many people

2 Sweet Reasonableness Fabians tried to push their ideas without the least bitterness and fanaticism While communism spread violence, fanaticism and hatred wherever it struck roots, Fabianism did not do anything of the kind With sweet reasonableness, dignity, sobriety and non partisan approach, Fabians won over people belonging to different walks of life, and the impact of Fabianism on Parliament was indeed great

3 Improved Lot of Labour Fabians did much to improve the lot of labour The labour movement in Britain owed much to the support lent by Fabians

Defects In spite of the services rendered by Fabians, they have not escaped criticism In fact, some have levelled the most scathing criticism against them Fabians have been criticised for

want of honesty and straightforwardness According to Barker and other critics, Fabians do not speak out plainly, and shift their stand according to circumstances Hence, the charge of opportunism has been levelled against them

MAIN POINTS

1 **Meaning of Fabianism** Socialism through evolutionary methods. Sweet reasonableness

2 **Origin** Establishment of Fabian Society in Britain in 1882 Fabians to wait and strike at the right time Extensive study and dissemination of views, propaganda

3 **Features Ideas and Methods** 1 Socialist membership Elimination of private property Reward to labour Industrial capital not to be private monopoly 2 Fabianism justified on historical industrial economic moral and incentive grounds 3 Peaceful methods Social reforms No party No mass appeal and dogmas

4 **Evaluation** 1 Merits Great influence in Britain Sweet reasonableness. Improved labour conditions 2 Defects Fabians shift stand from time to time Charge of opportunism

CHAPTER 29

SYNDICALISM

A Definition and Meaning of Syndicalism

Direct Action, General Strikes, Syndicates against Bourgeois

Syndicalism is another product of the nineteenth century Syndicat in French means trade union, and from this term Syndicalism has been derived Syndicalism is a doctrine and movement aimed by trade unions against capitalist system of production "The ideology of Syndicalism justifies direct action or the general strike to obtain control over production by organizations of workers Syndicalism represents a revolutionary labour movement making trade unions the basis of social revolution as well as of future society It combines the political theory that distrusts the state as a tool of capitalists with direct, non-political methods of trade unionism "[1] Ernest Barker says "Syndicalism like marxism, is a doctrine inimical to the bourgeois or capitalistic state but while Marxism erects a whole class, called the proletariat as the enemy of the bourgeois state, and propo es to build on that class a new state representing the dictatorship of the proletariat, Syndicalism, has evolved a different system of tactics It erects as the enemy of the bourgeois the various and separate syndicates "[2] The important principles of Syndicalism were given by Fernand Pelloutier, who worked as the General Secretary of the National Federation of Brouses during 1894–1901

Trade Unionism, Anarcho-Syndicalism, Organized Anarchy

In France, Syndicalism also means trade unionism. Syndicalists based their trade unionism on revolutionary ideas of thinkers Proudhon, the Anarchist So, Syndicalism is also called Anarcho-Syndicalism Critics regard it as Organized Anarchy As Syndicalism combines revolution with trade unionism, it can be named as Revolutionary Trade Unionism

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1 J S Roucek and Others [illegible] Science (1[illegible]

2 Reflections on Government (1953) [illegible]

B Origin and Growth of Syndicalism

Origin of Syndicalism in France with Withdrawal of Anti Trade Union Legislation Syndicalism originated in France in the second half of the nineteenth century, when government removed the hurdles in the way of workers by legislation The atmosphere in France was favourable, particularly after the establishment of the Third Republic in 1875 While originally workers in France were prohibited from forming trade unions or associations, the laws of 1864, 1868 and 1884, conceded to the workers the right of forming associations Workers, who had been kept down, now got a chance to organize themselves into associations. The attitude of Waldeck Rousseau, the Minister of the Interior in the cabinet of Jules Ferry was conducive to the formation of trade unions

Emphasis on Militant Workers' Organization, Sabotage and Strikes The accent of workers was on militant organization. In 1887, a militant workers organization was established in Paris, the example of Paris was followed by other towns and cities The organizations progressed steadily, and barely within six years after the formation of the organization in Paris a National Federation of Brouses was set up, and before long it became the heart of the workers movement in France Further activity led to the birth of the Confederation Generale du Travail, the chief national organization of workers This put Syndicalism on a sound basis

That Syndicalism was wedded to militant ideas was amply proved through the functioning of Syndicalist organizations Syndicalists were the root cause of several strikes and acts of sabotage They created a great problem to the government particularly by their treasonous attitude during World War I, and the movement was very much discredited

New (Moderate) Syndicalists and Militant Syndicalists Conditions in France necessitated a change in the attitude of Syndicalists When World War I (1914–18) broke out, the majority of Syndicalists belonging to the General Confederation of Labour gave up their anti-war and anti-government policy, and made a compromise with the government and the socialists in order to promote war effort The majority of Syndicalists who were moderates abandoned violence altogether However there were Syndicalists who were not prepared to abjure their old methods, but they formed a minority

In the post-war period the difference between the pro-government moderate Syndicalists on one side and the anti-government extreme Syndicalists on the other were accentuated. In 1922 the moderates separated themselves from the militant ones. Militant Syndicalists who were in minority formed the General Confederation of United Labour and followed the principles and aims of the Communist International. The rift between two Syndicalist groups led to the rise of New Syndicalism and to the decline of Syndicalism in general.

New Syndicalist Belief in Institutionalism, Collaboration and Co-ordination. The rise of New Syndicalism actually spelt the doom of the Syndicalist movement. The principles of New Syndicalism were enunciated by Syndicalist thinkers like Lagardelle, Pierrot and Leroy. New Syndicalism was to have no truck with the old concept as it did not stand for class war and violence. The New Syndicalists desired "to supplant the negative destructive policy of the older Syndicalism by a positive and comprehensive policy." The old technique of *conspiracy* was to yield place to the new technique of institutions.[1] They laid great emphasis on collaboration and co-ordination among various kinds of manual workers, who should form units and the state should supervise and co-ordinate the activities of the various units. The state should exercise the minimum of coercive power. The state should be the means of enlightenment and impulse to initiative and invention.

Syndicalism in Spain, Britain, USA and Italy. Syndicalism went beyond the frontiers of France and spread in countries like Spain, Britain, the United States of America and Italy. Tom Mann, a militant trade union leader, tried to spread Syndicalist ideas in England. He established the Industrial Syndicalist Educational League and propagated his ideas through his monthly journal *Syndicalist* and pamphlets. The spread of Syndicalism led to several strikes in England. The English people were emotionally and in other respects not sympathetic to militant trade unionism preached by Syndicalists. In Spain Syndicalism was suppressed during 1926-[illegible], and in Italy it was put down by Mussolini. In the USA, socialists established in 1905 their organisation called the Industrial Workers of the World (IWW). Unlike French Syndicalism, American Syndicalism was not militant. American Syndicalists organised peaceful strikes. During the World War I (1914-18) [illegible]

[1] F. W. Coker, Recent Political Thought (19[illegible]), p. [illegible]

suffered, as the government suppressed strikes, but after the war, the Industrial Workers of the World became impotent

Among Syndicalist philosophers, Fernand Pelloutier (1867-1901) and George Sorel (1847-1922) are noteworthy

Pelloutier's Call for Workers' Co-operation Pelloutier called upon workers to remain aloof from politics, and exert themselves through labour exchanges and better their own condition through co-operation

Sorel, Sympathiser of Marxism Sorel, who abandoned socialism and accepted Syndicalism was a sympathiser of Marxian ideas But he laid emphasis on the point that it was essential to know Syndicalism before studying Marxism Sorel was in favour of establishing an industrial self-government of the working class His views were anti-democratic anti-middle class and pro-Marxist The present social system and the state should be got rid of, and their place should be taken by a new society grouped on the basis of economic functions Instead of a central political organization, there should be governing syndicates and unions, and workers should be masters Workers hould organize a general strike and paralyse government This would put an end to capitalism and give rise to Syndicalism

C Features of Syndicalism

The following are the essential features of Syndicalism

1 **No Clear Image** At the outset itself, it should be noted that a clear picture of Syndicalist society cannot be had, in fact, Syndicalists tried to avoid creating a clear image It is interesting to note that Sorel said that giving a clear picture of the future state of affairs would be detrimental to the interests of workers (Even then it is possible to outline the important Syndicalist ideas)

2 **Anti-Democratic** Syndicalism is anti-democratic According to Syndicalists, in the name of democracy a few seize power They believe in the existence of classes, which are antagonistic to one another They have no faith in the system of political parties on which modern democracy functions To them political parties are artificial groups, whereas classes are the product of history

3 **Anti State** It is also anti-state, and regards the state as a bourgeois institution working for the interests of the rich and acting as an intrument of exploitation However, it should be

noted that unlike anarchists, Syndicalists do not want the state to be scrapped altogether

4 **Violence, Sabotage, Strikes, Boycott and Slowdown Tactics** Syndicalists depend upon revolutionary and violent methods They desire a small group of militant workers to lead the Syndicalist movement Methods of violence and sabotage are freely advocated Strike is the soul of Syndicalist action The more frequent the strikes, the better it is for the worker "The strike brings the working men face to face with the employers in a clash in interests A strike clears up, as if by a flash of lightning, the deep antagonism, which exists between those who employ and those who work for employers " Similarly, the policy of boycott also is much in Syndicalist favour They find out ways and means to slow down work They asked workers to waste time, to loaf on work, to disobey instructions in spirit, to damage goods in quantity while improving their quality and to reveal the drawbacks of goods to customers Boycott and label have become effective weapons in the hands of Syndicalists

5 **Against Wars** Syndicalists are not interested in wars, which they feel are the concern of capitalists According to them, there is no point in shedding blood in wars, in which only capitalism has stakes Workers should keep out of wars and bloodshed and bend their energy for their own uplift Syndicalists say that the army and the police are maintained to protect the interests of capitalists and suppress the movements of workers While in normal times the army is employed to break strikes, in war times, it upholds the interests of industrialists and their friends

6 **To Put Labour in Power** The main aim of Syndicalists is to put labour in power by getting rid of capitalists or bourgeoisie Thus it is clear that Syndicalism is friendly with Marxism as the anti-democratic, anti-parliamentarian and violent attitude of Syndicalism testifies

7 **Do not Entertain National Spirit** According to the Syndicalists, the French Government was unfriendly to them, and it was very reluctant even to concede the workers the right to form trade unions In every country in which capitalists were strong (it was alleged), workers were given step-motherly treatment, and hence to the proletariat, the words 'nation' and 'country' had little meaning The suppressed proletariat, as Marx

argued and Syndicalists accepted, had no country of their own. Syndicalists do not speak passionately and patriotically in terms of their nation or their motherland To them their country is the one in which they work and get bread

8 **Syndicalist Groups and National Federation of Workers** In the social order envisaged by the Syndicalists, there would be no exploitation Local industries and other means of production would come under the control of Syndicalist groups, and services of country-wide importance under a national federation of workers There would be no parliaments, law courts and jails

D Evaluation

Let us briefly discuss the merits and defects of Syndicalism

Merits The following are merits of Syndicalism

1 Syndicalism as a school of thought did service to the world of workers by making them conscious of their position and galvanising and vitalising them to action

2 It stimulated socialist thinking and drew the attention of democracy, parliamentarianism and state socialism

3 Syndicalism is right as far as it exposes the selfishness of capitalists

Defects Syndicalism suffers from the following drawbacks

1 **Anti-State** It is unrealistic, and it wants to degrade the state Though Syndicalists do not go so far as anarchists, their aim is to break the backbone of the state What will happen, if such a condition materialises, one can very well imagine

2 **Violence** It is wedded to violence, the mother of several individual and social evils

3 **No Clear Image** It does not give a clear image of Syndicalist society While the Syndicalists speak clearly of plans to bring capitalists to their knees, they do not give details of the new social order based on Syndicalism

4 **Little Attention to Consumers** While producers monopolise the attention of Syndicalists, consumers get scant attention

5 **Decrease in Production** It gives free hand to those who want to lessen production through sabotage and go slow tactics, not to speak of boycott and label

6 **Anti-National** It is also unpatriotic and anti-national

CHAPTER 30

GUILD SOCIALISM

A Meaning of Guild Socialism

National Guilds to Make Work More Interesting and Society More Democratic Guild Socialism is a product of the twentieth century and it flourished in the twenties It is a system and movement aiming at autonomy in industry through the formation of guilds F W Coker says in his *Recent Political Thought* (1957) "Guild socialism is like the earlier French Syndicalism in its aversion to all doctrines that make productive activity dependent upon political authority It would protect the worker not only against exploitation by capitalists but also against any bureaucratic suppression of craftsmanship Its object is to make work more interesting and the whole economic structure of society more democratic "[1] It aimed at the ' abolition of the wage system, and at the establishment by the workers of self-government in industry through a democratic system of national guilds working in conjunction with other democratic functional organizations in the community " Guild Socialism followed the golden mean between the extremes of collectivism and syndicalism Guild Socialists desire to water down the sovereignty of the state and make guilds powerful "Guild Socialism was inspired in part by the teachings of William Morris a medievalist poet and artist of the nineteenth century, who condemned modern industrialism, because of its ugliness and its destruction of individual craftsmanship The essence of Guild Socialism was the transfer of ownership of the means of production to the state, with the management and operation of factories mines railroads, etc to be vested in the guilds of workers "[2] According to Orage, a guild "is a self-governing association of mutually dependent people organised for a responsible discharge of a particular function in society "

1 Op cit p 274

2 E M Burns *Ideas in Conflict* (1960) p 176

B Origin and Growth of Guild Socialism

National Guilds League in Britain Guild Socialism, an English school of thought originated in the second decade of the twentieth century, though the basic ideas of Guild Socialism were given by Arthur Joseph Penty (1875–1935) as early as 1906 in his book *The Restoration of the Guild System* English intellectuals, who at first lent their support to Fabianism gave rise to Guild Socialism In 1915, Guild Socialists established the National Guilds League in Britain This organization could boast of having eminent thinkers as members Thinkers like S G Hobson, A J Penty, A R Orage and G D H Cole expounded the basic principles of Guild Socialism

Modification of Penty's Views by Hobson and Orage Samuel George Hobson (1864–1904) and Alfred Richard Orage (1873–1934) studied the Guild Socialist principles of Penty While it was impossible to revive the medieval guild system and implement the utopian ideas of Penty, they tried to modify Penty's ideas to suit modern conditions Orage powerfully expressed his views through the columns of the weekly *New Age*, which he was editing These articles were in course of time published in a book form The book *National Guilds an Enquiry into the Wage System and the Way Out* gave a systematic exposition of the views of Hobson and Orage

Intellectual Child of Fabianism and Syndicalism Guild Socialism was intimately connected with Fabianism, as Syndicalism was to Communism Guild Socialists borrowed ideas from English Fabians and French Syndicalists, and so it has been regarded as "the intellectual child of English Fabianism and French Syndicalism' Collectivism or state socialism could not solve the economic ills and so some other ism was necessary Those who felt that collectivism was trying to remove capitalist bureaucracy to make way only for establishing centralised bureaucracy of the state were badly disappointed For instance, Penty felt that in the large-scale production under collectivism the individual worker lost his identity or individualism, and it was not possible for him to display the beauty of his individual craftsmanship Guild Socialism would be able to give a place in the sun to the worker

Favourable Factors Certain factors were favourable to the growth of Guild Socialism These were the following

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Favourable Factors Certain factors were favourable to the growth of Guild Socialism These were the following

(1) The works of great writers like Thomas Carlyle, William Morris and John Ruskin, who criticised the evils of industrial capitalism and praised the advantages of the medieval guilds, supported the cause of Guild Socialists, who were all praise for the system of medieval guilds

(2) The writings of G K Chesterton and Hilaire Belloc, who criticised the policy of the British Government as one leading to the establishment of a "servile state', and pleading in favour of a "distributive state' also strengthened the cause of Guild Socialists

(3) In the nineteenth century, socialists severely criticised the wage system of capitalism and proposed production on a non-profit basis This again lent support to the Guild Socialist movement

(4) The evils of individualism, which were criticised by almost all schools of thought also became another favourable factor to Guild Socialism

C Basic Ideas of Guild Socialism

The following are the basic ideas of Guild Socialism

1 **Criticism of Capitalism** Like other critics of the capitalist system of production, Guild Socialists also attacked the wage system and the merciless exploitation of workers, but the remedy they suggested was different from that of other socialists

2 **Partnership between Workers and State** Guild Socialists are in favour of a partnership between producers and the state in the field of production This means handing over power into the hands of workers

3 **Decentralisation of Industrial Power** They level a scathing criticism on centralisation They want a change which would do away with rigid centralisation, and plead for a real change by decentralising industrial power through numerous guilds

4 **Autonomous Guilds** A salient feature of Guild Socialism is the formation of guilds, which are to get full autonomy in their work Guilds are to function on a co-operative basis and representatives are to be elected by workers Every worker will get several votes according to his different functional interests

5 **Functional Representation** While Guild Socialists criticised democracy in a capitalist pattern, they stood in favour of functional democracy They criticised territorial representation, and favoured functional representation They disliked the Marxian dictatorship of the proletariat

Controversy Regarding Local Guilds and National Guilds As regards the structure and the functioning of guilds, there was no unanimity of opinion While some Guild Socialists were in favour of organizing guilds on a local basis only the majority of them were in favour of forming guilds on a national basis Those who wanted local guilds only felt that guilds on a national basis would lead to centralisation, an evil against which they were fighting On the other hand, the advocates of guilds on a national basis argued that guilds would not function smoothly without bringing about a co-ordination in the activities of different guilds A good solution was to have a compromise between the two approaches by giving as much local autonomy to the guilds as possible This approach was realistic, as it was possible for national guilds to supervise the activities of guilds and also hear appeals

Cole's Idea of National Industrial Guild Congress G D H Cole advocated the formation of a National Industrial Guild Congress, which would have representatives from all national guilds This central organization would be in charge of the following functions

(1) to play the role of a guild legislature,

(2) to act as a final court of appeal,

(3) to draw up general rules for guilds

(4) to interpret the principles of Guild Socialism and settle disputes,

(5) to raise funds for its own working by imposing taxes on guilds

(6) to represent the cause of producers while dealing with representatives of consumers, and

(7) to function as a general representative of all guilds and look after their common external relations

Production of Consumers' Interests Guild Socialists made provision to protect the interest of consumers In order to prevent producers' guilds from developing monopoly, dictating prices and producing certain commodities only, Guild Socialists advocated joint consultation between Producers' Guilds and Consumer's Councils regarding questions pertaining to the interests of producers and consumers

D Methods of Guild Socialists

Peaceful and Constitutional As regards the methods advocated by the Guild Socialists, they were quite opposed to those

of Syndicalists While Syndicalists did not hesitate to speak in terms of violence to realise their ends, Guild Socialists spoke in favour of peaceful and constitutional methods Like the anarchists, they did not desire to abolish the state altogether, on the contrary, they wanted to make use of the state to reach the goal of bringing about a great improvement in the condition of workers They intended to employ the state machinery to pass laws calculated to ameliorate the conditions of workers They had no plan to pull down the edifice of capitalism all at one stroke, they wanted to get rid of it slowly by degrees

E Position of the State under Guild Socialism

Cole Favours State and Guilds on Par Guild Socialists give paramount importance to guilds, and naturally the rank of the state is lowered In this respect, all Guild Socialists do not share the same views Guild Socialists like G D H Cole go to far in depriving the state of its sovereign authority Cole puts the state and the guilds on the same footing According to them, the state should restrict itself in looking after defence, administration of justice, education, marriage affairs and such other matters. It should also protect the consumers' interests, regulate prices and income of the people The state is not to meddle with questions of production, which are to be dealt with by the guilds The Supreme Court of Functional Equity enjoys more powers than the state as it can settle disputes between the state and guilds Like communists and anarchists, Cole advocates the withering away and the abolition of the state This is to take place by organising different guilds into communes which will be armed with very wide financial and other powers

Supremacy of State Retained by Hobson S G Hobson does not go so far as Cole According to Hobson the state should be given a supreme position but it should delegate some of its powers to other associations like guilds He desired to reduce the powers of the state without taking away its supreme power As a supreme authority the state is to settle disputes between guilds as a Court of Final Appeal The state is to maintain peace and order, look after foreign relations maintain police and armed forces own industries and tools to be leased out to guilds give financial assistance to guilds and draw up rules and regulations for the functioning of the guilds Thus Hobson brings into bold relief the superior position of the state

F Evaluation of Guild Socialism

Let us briefly examine the merits and defects of Guild Socialism

Merits The following are the merits

1 Encouraged Pluralist Thinking In their good days Guild Socialists did much to focus the attention of the people on the evils of absolute sovereignty of the state The current of pluralist thought became strong owing to the support given by Guild Socialists

2 Idea of Joint Management The idea of joint management of industries by the representatives of employers and employees had a strong appeal to many

3 Interest in Housing After World War I (1914–18), Guild Socialists raised the question of housing in England and enthusiastically undertook the job of constructing buildings, and different guilds were integrated into the *National Building League* But the laudable construction plan to solve the shortage of housing came to grief owing to various causes, and in 1925 the National Guilds League had to be abolished This marked an end to the Guild Socialist movement in Britain Then its members had to go over to other forms of socialism

Defects The following are the defects of Guild Socialism

1 Unrealistic Guild socialism cannot stand the test of reason, and in the practical field it is bound to fail It is all right for theorists to speak of dividing powers between the state and the various guilds without giving the state the necessary powers to function The state is to look after foreign relations and maintain peace and order and guilds are to look after production To put these into different compartments and give guilds the position of equality with the state are the surest methods of paving the way to chaos and anarchy The co-existence of two parliaments representing territorial interests and functional or economic interests is hardly possible While Guild Socialists point out that a joint committee of two parliaments will solve disputes between them, in actual practice there will be nothing but deadlock

2 Creation of Two States The formation of guilds with wide powers, which render the state untenable is against the interests of the state In championing the cause of complete

autonomy of guilds, Guild Socialists give rise to two states with in the same territory Political and Economic The co existence of these two states makes a ridiculous picture None of them will be able to continue for a long time, and even if they continue, there will be never ending conflicts from whose evil effects the people will suffer

3 **No Incentive to Hard Work** It is also pointed out that production is bound to suffer under Guild Socialism owing to various causes Particularly the incentive to hard work will be lacking, and this will cut at the very roots of production

4 **One Type of Sovereignty to Replace Another** The approach of Guild Socialists is doctrinaire It is not possible to get rid of sovereignty as Guild Socialists imagine While the extreme Guild Socialists like Cole may succeed in destroying the state sovereignty, they will create another organisation, which will have to take the place of the state and exercise sovereignty One type of sovereignty that is of the state will have to make way for another type of sovereignty that is of the guilds

5 **Retrograde Steps** Guild Socialists like to take retrograde steps like reviving the medieval guilds which died long back Medieval guilds disappeared as they could not cope with the problems of modern times It passes one s understanding as to how the revival of the medieval guilds with their glaring defects will be able to solve modern questions

MAIN POINTS

1 **Meaning of Guild Socialism** Organisation of guilds State sovereignty to be watered down

2 **Origin and Growth** Origin in England Work of National Guilds League Contributions of Penty Hobson and Orage Synthesis between Fabianism and Syndicalism

3 **Basic Ideas** 1 Exposure of capitalism 2 Partnership between workers and state 3 Autonomous guild 4 Decentralisation of power 5 Functional representation

No unanimity of views regarding Local Guilds and National Guilds Peaceful and constitutional methods to be followed

4 **Position of the State** Cole desires to degrade the state and put guilds on par with it Cole even advocates withering of state Hobson does not go so far

5 **Evaluation** Merits—1 Encouraged Pluralist thinking 2 Interest in ousing Defects—1 Unrealistic and doctrinaire 2 Creation of two states 3 No centive to hard work 4 One type of sovereignty to replace another 5 trograde movement

CHAPTER 31

COMMUNISM

A Definition and Meaning of Communism

A Form of Socialism Defining communism is a difficult task, though it is easy to enumerate the basic principles of communism Confusion regarding the meaning of the term 'communism' is increased by the indiscriminate way in which it has been mixed up with terms like 'socialism' Let us observe at the outset that communism is a form of socialism (We noted earlier that socialism itself cannot be defined precisely)

Marx not the First Socialist Thinker It must also be noted that Karl Marx and Friedrich Engels were not the first to give socialist ideas As stated in connection with capitalism and democratic socialism, communism can be found in Plato's *Republic*, and in modern times socialist ideas can be seen in the works of St Simon, Fourier and Owen Marx and Engels introduced revolutionary socialism or communism, which must be clearly distinguished from democratic socialism

Socialism and Communism While all communists are socialists, all socialists are not communists In the nineteenth century, the terms *socialism* and *communism* were more or less regarded as synonymous the term *communism* was not widely used during the period 1848-1918 In Soviet Russia, Lenin's revolutionary followers called themselves communists, and broke away from socialists Soviet Russia is called the Union of Soviet Socialist Republics the term 'communist' has been avoided It is believed that socialism is a prelude to communism It seems theoretically that Russia will become "communist" in the future when the state will "wither' away ' The ideology of communism favours state ownership of the means of production and equal distribution of wealth The term 'communism' has often been used as identical with 'socialism as was done by Karl Marx and Friedrich Engels in the *Communist Manifesto* (1848) After November, 1917,

when Lenin and his followers established the dictatorship of the proletariat, the party was named the Communist Party "[1]

B Karl Marx and Friedrich Engels

Communist Manifesto of Marx and Engels The year 1848 is a great landmark in the history of the world, for it witnessed Marx and Engels issuing a joint *Communist Manifesto* addressed to the workers of the world "to unite, for you have nothing to lose but the chains of your slavery " These two collaborators, who expressed themselves in unambiguous and clear-cut language against the evils of capitalism provided the ideology for bloody revolutions which were staged in Russia and China in the twentieth century Marx and Engels are regarded as the high priests of proletariat socialism or communism

Lassalle Another writer in whose works the doctrines of "proletariat ' socialism can be found was Ferdinand Lassalle (1815-64), who gave the principle of the "iron law of wages"

1 Karl Marx (1818-1883)

Expulsion from Prussia and France Marx was born to Jewish parents (who had become Christians) in 1818 in Trier in Prussia He was educated at Bonn, Berlin and Jena, and in 1841 he got a doctorate degree in philosophy at Jena It is curious to note that Marx who was to rock capitalist citadels all over the world married a lady of the class of Prussian nobles in 1843, in the same year, he became a socialist Owing to his radical views he was not allowed to be a university teacher and his radical journalism led to his expulsion from Prussia

Communist Manifesto During 1843-49, he was in France and Belgium in January 1848 along with Friedrich Engels he issued the *Communist Manifesto* when he was thirty years old In 1849, owing to the pressure of the Prussian Government, he was expelled from France also

Das Kapital For about 34 years Marx was in exile in England He spent these years in writing pamphlets and treatises on socialism The publication of his *magnum opus, Das Kapital* was the most significant event in his life He died in 1883 after having gone through difficult years of illness and poverty His friend Engels helped him much to tide over his financial troubles He could publish only the first volume of his *Das Kapital*, and the remain

1 J S Roucek & Others *Introduction to Political Science* (1954) p 83

ing two volumes were published several years after his death by the efforts of Engels

2 Friedrich Engels (1820-1895)

Studied Social Condition in England Friedrich Engels was born in 1820 His father was a rich cotton manufacturer in England Being in his father's business, he got chances to know the social condition in England He published *The Condition of the Working Class in England* in 1845 for which he won fame in Europe

Collaboration with Marx and Self-sacrifice In 1844 he came into contact with Karl Marx in Paris, and became his great friend and collaborator They together released the *Communist Manifesto* in 1848 Like Marx, he was enagaged in participating in radical movements and conspiracies His father was against his views and activities which were directed against capitalism As an anti-capitalist and socialists, Engels was very loyal to Karl Marx, whom he helped to tide over financial straits His devotion to his friend Marx was such that he was prepared to lose his identity and allow his friend to get a name In dealing with revolutionary socialism or communism, we assign Engels a place second to that of Marx "The friendship and collaboration of Marx and Engels is almost if not quite unique in literary history Marx was by no means easy to get on with, and Engels' devotion was often sorely tried by the former's importunities concerning money matters and his callous disregard of Engels' feelings, his willingness to forgive much and to play second fiddle to Marx can only be explained by his complete devotion to communism"[1] He wrote several books in collaboration with Marx, and himself wrote separately books like *The Origin of the Family, Private Property and the State, and Socialism Utopian and Scientific*

Publication of Das Kapital After the death of his friend, he caused the two remaining volumes of *Das Kapital* to be published

When Engels died in 1895, theorists like August Babel, Wilhelm Liebknecht, Jules Guesde and Karl Kautsky for some time upheld Marxism Kautsky (1854-1938) who spent a major part of his life in Austria and Germany was a great defender of the fundamental principles of Marxism

Utopian and Scientific Socialism It is necessary here to note the difference between socialism as preached by Owen and others on

1 L W Lancaster *Masters of Political Thought* Vol III (1959) p 161

one side and socialism as taught by Marx and Engels on the other The former came to be known as Utopian Socialism and the latter Scientific Socialism Utopian Socialism is mild and evolutionary, whereas scientific socialism or communism is violent and revolutionary The term 'Utopian Socialist is applied chiefly to Count Henri de Saint-Simon Charles Fourier and Etienne Cabet in France and Robert Owen in Britain In England, Charles Kingsley, Frederick Denison Maurice and J M Ludlow applied Christian ethics to socialist movement and thus the Christian socialist movement began Christian socialists did much good work in the field of education

Marx and His Predecessors Though socialism "has its definite origin principally in the works of Karl Marx", "many of the basic economic doctrines of Marxian socialism, however, are to be found in writings several decades earlier notably in the works of William Thompson Thomas Hodgskin, John Gray, John Francis Bray and other British writers [1] The teachings of Karl Marx move round a few basic principles viz Dialectical Materialism the Materialistic Interpretation of History The Theory of Surplus Value, Class War, Concentration of Capital Dictatorship of the Proletariat Withering away of the State and Religion the opium of the people Marx s principal doctrines were not new; but he greatly amplified and systematised older ideas, putting them into new and effective combinations "[2]

C Basic Principles of Karl Marx

The following are the basic principles of Karl Marx

1 Dialectical Materialism Dialectical materialism is one of the basic principles of Marx Dialectic literally means discussion Dialectic is the study of contradictions, which lie at the very heart of existence Development is the struggle of opposites "[3] Marx and Engels learnt from Hegel the general nature of the dialectic, though they objected to and rejected Hegel s idealistic interpretation They did not agree with the principles that external reality was a mere reflection of something within the human mind Unlike the idealists, who believed in the existence of the mind, materialists thought that nature or matter existed independent of and outside the mind According to them, matter the source of

1 F W Coker Recent Political Thought (1957) p 222
2 Ibid p 41
3 E Asirvatham Political Theory (1957) p 222

sensation and ideas is primary, and mind, the mirror of matter is secondary Marx evolved the theory of philosophical materialism, the world is by nature material, and the different phenomena in the world are different forms of matter in movement From this it follows that material life of society is primary and spiritual life it secondary The material life of society depends upon the method of securing the means of livelihood and the way of producing material values

Thesis, Anti-thesis and Synthesis The argument of dialectical materialism states that opposite forces which are always present form the moving force of history "Marx had a conception of progressive evolution or historical dynamics operating in response to economic forces This he derived from the German idealist Hegel, who conceived of history as a dialectical process, or struggle of opposites, in which dominant idea of each age assumed the role of a *thesis* The thesis was soon confronted and eventually defeated by an *anti-thesis* or opposite This contest finally resulted in the production of a *synthesis* which incorporated the more valuable elements of both thesis and anti-thesis "[1] The opposite forces in society never balance each other, on the other hand one of them is stronger than the other History presents the process of action and reaction between the forces Capital, which represents one force is the thesis, and labour is the anti-thesis This leads to class struggle

2 The Materialistic Interpretation of History or Historical Materialism Materialistic interpretation of history is another basic principle of Marxism Marx applied the principle of dialectical materialism to the interpretation of history According to Marx, economic conditions determine historical phenomena " Human beings must eat and drink and obtain shelter and clothing before they can pursue politics, science, religion and art Thus the stage of advancement of the production, distribution and exchange of goods and the organisation of society resulting therefrom, determine in the final analysis the political social and cultural developments "[2] Man must eat to live and his life depends upon the measure of success with which he produces what he needs Production of wealth is the most important human activity "The materialistic conception of history starts from the principle that production,

1 E M Burns *Ideas in Conflict* (1960) p 148
2 Ibid p 148

and with production the exchange of its products, is the basis of every social order, that in every society which has appeared in history the distribution of the products, and with it the division of society into classes or estates is determined by what is produced and how it is produced and how the product is exchanged"[1]

Primitive, Ancient, Feudal and Capitalist Stages Marx speaks of four stages through which production passes

(1) *Primitive Communist Stage* In this stage, the means of production are owned by the community and they are meagre

(2) *Ancient Stage* In this stage owners of slaves and of the means of production get everything that is substantial, and the poor and the slaves who receive very little form the exploited lot

(3) *The Feudal Stage* In this stage the feudal baron owns land, the most important means of production and exploits the serfs

(4) *The Capitalist Stage* In this stage, the capitalist owns all the important means of production and makes the workers wage slaves or tools

In the Ancient, Feudal and Capitalist stages the structure of society is the result of conditions of production Material conditions of life are so important that they determine the political and social conditions Society develops a particular outlook owing to economic conditions The mental attitude of the people is the product of material conditions Religion and law are also determined by the same conditions Society goes through these different stages to ultimately reach a stage of classless society Each stage is better than the earlier one

War between Classes Marx says that according to the relentless law of history, a particular class owns and controls the means of production and by virtue of this exploits the rest of the people The capitalist class makes use of the state as an instrument of oppression and exploitation Thus at every stage there are broadly two classes the owners of means of production and exploiters on one side and the exploited on the other History presents nothing but the record of a war between classes Every exploiting class at each stage gives rise to an opposite class Hence thesis and anti-thesis can be noted Feudal barons and capitalists form the thesis and the serfs and the proletariat respectively constitute the anti-thesis

[1] L. W Lancaster Masters of Political Thought Vol III (1959) p 169

Thesis of Capitalism To Be Overthrown by Anti-thesis of Organized Workers According to Marx, capitalism carries with it the seeds of its own destruction Capitalism will be destroyed by capitalists themselves and not by professional revolutionaries The relentless laws of social development, which over threw the old systems will also pull down capitalism Big Business, the thesis creates Big Labour, the anti-thesis The thesis of capitalism will be got rid of by the anti-thesis of organized workers Capitalism will be overthrown by the proletariat, and there will emerge a state of socialism which is only transitional The dictatorship of the proletariat will make use of the state to suppress the friends of capitalism and enemies of the proletariat Ultimately, a stage will come when there will be no state at all

3 **The Theory of Surplus Value** The value of a commodity depends upon the quantity or amount of labour put in to produce it Human labour alone is the creator of all real economic value Factors other than labour are insignificant and unessential Though *the labourer is the real creator of value, the capitalist does not* pay him his full due, but only a part of it Labour creates two values Necessary and Surplus The wage paid to the labourer is equal to the necessary value The remaining major part of the worker's due is taken away by the capitalist The difference between the value of a commodity and the actual payment made to the labourer represents surplus value which is misappropriated by the capitalist employer This illegal income of the capitalist is called profit The greater the exploitation of the worker the higher is the surplus value Surplus value is called "congealed labour" by Marx "Capital creates nothing, but is itself created by labour However the worker does not receive a just share of the value his drudgery or skill creates"

4 **The Theory of Class War** The idea of class war emerges from the theories of dialectical materialism, materialistic interpretation of history, and surplus value At every stage in history, there is war between the classes The land-owner exploits the landless and the factory owner exploits the workers Between the classes, there is hatred and antagonism 'Freeman and slave, patrician and plebian, lord and serf guild-master and journey-man in a word, oppressor and oppressed, stood in constant opposition to one another, carried on uninterrupted now hidden and now open fight, a fight that each time ended, either in a revolutionary reconstitution of society at large, or in the common ruin of the contending classes"[1]

1 Quoted in L W Lancaster *Masters of Political Thought* Vol III (1959),

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1 Quoted in L W Lancaster *Masters of Political Thought* Vol III (1959) p 172

French Russian and Chinese Revolutions Marx referred to the French Revolution (1789) as a reaction against exploiting feudalism It was, according to him, a bourgeois revolution calculated to overthrow the privileged class, which was robbing the underprivileged class of its legitimate dues While Marx spoke of the French Revolution like a historian he became the prophet of the Russian and the Chinese revolutions of the twentieth century

5 **The Law of Concentration of Capital** Another principle put forth by Marx is of concentration of capital in a few hands The rich become richer, and the poor become poorer, as the wealth of the community gets concentrated in the hands of a few people The rich the owners of the means of production easily multiply their capital In the capitalist system, capital is in the hands of a few This goes on increasing rapidly in the hands of the few, while the have-nots are progressively pauperised

Overthrow of the few Capitalists The rise of trusts, cartels and monopolies, which fall in the hands of a few capitalists is a danger to capitalism itself This is because the number of capitalists, in whose hands wealth is concentrated goes on diminishing while the ranks of the proletariat go on swelling The concentration of wealth takes place not only in the hands of industrial capitalists but also in the hands of landlords The proletariat will overthrow both the landlords and industrial capitalists

6 **The Dictatorship of the Proletariat** Marx also speaks of the dictatorship of the proletariat The proletariat, that is the landless and propertyless masses who are being ruthlessly exploited will overthrow the capitalists and establish a dictatorship which will last for some time only The proletariat is that class of society whose means of livelihood entirely depends on the sale of its labour and not on the profits derived from capital whose weal and woe whose life and death whose whole existence depend upon the demand for labour, depend upon the alterations of good times and bad, upon the fluctuations, which are the outcome of unbridled competition "[1] The ultimate aim will be to bring about a classless society In the transitional period, the dictatorship of the proletariat will seize all capitalist property, abolish all rights of inheritance and centralise means of transport and communication In the temporary phase, labour will be paid according to work though the ultimate aim is to realise the principle "from each

1 Ibid. p 178

according to his ability and to each according to his need" "A realistic definition of the dictatorship of the proletariat must be sought for not so much in the writings of Marx as in the actual conduct of affairs in Soviet Russia during the 'transitional' stage of communism Once they were in power, Lenin and his successors made no secret of their disbelief in anything like a mass movement"[1]

7 **The Withering of the State** Marx says that ultimately the state will wither away In the transitional stage, the state will be used by the proletariat to destroy any resistance from the bourgeoisie There can be no free popular government, as all power will have to be used to crush the bourgeois reactionaries The dictatorship of the proletariat will bring about social and economic justice, then there will be no thesis and anti-thesis and class war One man will not exploit another man, and one class will not exploit another class Thus ground will be prepared for the disappearance of the state As soon as the dictatorship of the proletariat is set up, the process of the withering of the state will begin The complete disappearance of the state marks the zenith of Marxian socialism

and the will of whatever god they venerate"[1] The landless and propertyless masses of people are compelled to react violently against their exploiters and stage a revolution

D Evaluation of Marxism

Let us briefly discuss the merits and defects of Marxism

Merits The following are the merits of Marxism

1 A Tremendous Force Whether one agrees with Kai Marx or not one has to recognise the tremendous effect his teachings had over millions of people all over the world It is strange yet true, that Marx was unwittingly supported by exploiting capitalists themselves through their obduracy and refusal to change their track Had capitalists in the nineteenth century followed the enlightened and benevolent path chalked out by Robert Owen, Marxism would not have grown so very rapidly Similarly, in 1917 the Czar Nicholas II of Russia, who refused to yield and continued to exploit the people lost his power and life The capitalists refused to make compromise with the workers as they failed to see the writing on the wall They went on exploiting the workers in the name of individualism Violent revolution wa the reaction against capitalist stubbornness Though Marx himself did not engineer a real revolution, he provided sufficient combustible material for the Russian and Chinese Revolutions As Marx said exploiting capital sm carries with it seeds of its own destruction

2 Hope to Workers At a time, when Owenism could not cut much ice in countries in which workers were shamelessly and mercilessly exploited and workers were in need of a great leader, Karl Marx emerged to give a clarion call to workers of the world to unite Though his teachings had serious flaws they inspired hope in the underdog when there seemed to be no hope at all Which exploited worker would not like to be told that labour is the real factor of production and that the employer is robbing him of his legitimate dues?

3 Clear-cut Theory Marx provided a clear-cut theory, which could not be given by leaders of democratic socialism The theory could be easily understood by workers The theory which was highly favourable to workers could capture their imagination, particularly in countries in which governments and capitalists ground down the have-nots

1 W Ebenstein *Today's Isms* (1958) p 10

4 **Terror to Exploiters** Marxism became a terror to capitalism, and capitalists all over the world found it a night-mare "A spectre is haunting Europe, the spectre of communism All the powers of old Europe have entered into a holy alliance to exorcise this spectre Pope and Czar, Metternich and Guizot, French Radicals and German police spies" (Marx and Engels)[1] Though there was much in Marxism, which was incorrect and undesirable, it had a sobering effect on capitalists as an exploiting class All over the world, workers got relief either through a revolution or through reforms introduced by capitalists, who wanted to save the skin of their teeth The fear of communist revolution drove employers to the path of rectitude Countries which dread communism as plague are trying to fight against it by winning the support of the people through social welfare activities

Demerits of Marxism

The theory of Karl Marx has the following flaws

1 **Non-economic Factors Ignored** The materialistic interpretation of history is incorrect, as it considers the non-economic factors like political conditions, religion language, art and science as insignificant Marxian approach to history is very narrow and is absolutely prejudiced in favour of material conditions of life While it can be admitted that economic conditions are of great importance, it is wrong to say that there is nothing outside them in the life of an individual or in the history of a country

2 **Class-war Concept Misleading** The theory of class-war is also incorrect and misleading To Marx, history is nothing but a record of wars between the haves and the have-nots It is hardly possible to find in the history of the world any country in which people are clearly divided into two classes with an unbridgeable gulf between them The concept of class-war is artificial, and it is more aimed at capturing the workers' minds than at providing a true theory regarding social relations

3 **"Surplus Value" Wrong** The theory of Surplus Value also can be criticised strongly It gives too much importance to labour and ignores factors of production like land, capital and business organisation The theory is best calculated to serve propaganda ends, it flatters the workers wrongly and does gross injustice to other agents of production

1 In Grimes and Horwitz *Modern Political Ideologies* (1959) p 217

4 State not Obstructive It is also wrong to s y that state is used as an instrument of oppression and exploitat While it is true that those in authority in different countr some time or the other abused their power to serve their ov ends, it is grossly incorrect to say that the state is not a creati force but an obstructive agency Many examples can be given to show that the state is a positively creative force and an agency of service Human beings cannot do without the state In modern times, governments implementing social welfare schemes have proved beyond a shadow of doubt that the state is there to protect the people to provide security to life and property and to promote their welfare and happiness

5 State not Withering Marx speaks of the possibility of having a classless society in which the state has no reason to continue According to him the state will ultimately wither away Such a condition can be better imagined than realised The post revolutionary periods in Stalin s Russia and Mao s China show a trend opposite to Marxian expectations Not only the plant of the state did not wither away but on the contrary it put on a greener colour In fact developments in Soviet Russia and China have shown that the state has become all powerful and the individual risks his life and liberty in criticising its powers

6 Injustice to Religion Karl Marx does great injustice to religion as a vital force in life, when he says that it is the opium of the people Instead of criticising the weakness of those, who have put religion to the wrong use Marx hits out at religi itself No one can gainsay the importance of religion as a pa every individual chalks out for himself to reach his higher sel In the life of every individual and of every nation religion wher rightly used has acted as an elevating, and ennobling force To get rid of religion is to deprive humanity of a spiritual force, which has been found wholesome all over the world Marxism makes human beings attach too much importance to materialism, and ignore the spiritual and ethical values of life It is anti religious and atheistic

7 Gospel of Hatred Through dialectical materialism, histori cal materialism and class-war, Marx generated hatred and fanati cism everywhere Just as Marx himself was not prepared to listen to the arguments of his opponents the followers of Marx too are not ready to discuss matters as they should Blinded by fanaticism they talk in terms of class-war and the elimination of the capitalist

and the bourgeoisie Marxism has become the gospel of extravagant hatred which seeks to make no compromise with love, understanding and compassion Marxism gives no quarter to tolerance, but preaches hatred against the employers, the well-to-do people and the government Its attitude is cynical and tactics violent and subversive

Criticism of Marx by Revisionists like Bernstein Even when Marx was alive, some had differences of opinion with him while others desired to maintain Marxian principles in their pure form Among those who did not fall in line with all dogmas of Marx, the most prominent was Eduard Bernstein, who formally started the process of revisionism during 1896-98 by publishing a series of articles which criticised Marx Bernstein argued that Marx was wrong in saying that capitalist society was about to collapse, and also rejected the Marxian principle of class war This criticism of Marx made Bernstein unpopular with the orthodox German Social Democrats, particularly Karl Kautsky "The most definite issue between Bernstein and the orthodox Marxians arose out of his challenge of Marx's prophecy as to the future irresistible movement through which capitalism, under the laws of its own growth and disintegration, would lead to socialism In refuting that prophecy, Bernstein argued, with an abundance of supporting statistics, that small-scale industries are not disappearing, that concentration into large industries through the corporate form of organization tended to diffuse rather than concentrate the ownership of wealth, that the number of owners of capital was thus increasing "[1] Other Marxian critics were Jean Juares in France, Karl Branting in Sweden, and Emile Vandervelde in Belgium The revisionists followed a *via media* between democratic reformism and revolutionary socialism

E The Bolshevik Revolution

Absence of Liberalism, Poverty and Ruthless Exploitation Germany and Russia were the two big countries in which Marxism could establish itself Between the two, it had far better chances in Russia, because while Germany at least followed the forms of representative institutions Russia was not prepared to accept even the external formalities of such institutions The absence of liberal traditions in Russia coupled with political oppression, social inequality and degradation, abject poverty of the masses of people, illiteracy and ignorance, religious obscurantism and the illtreatment

1 F W Coker *Recent Political Thought* (1957) p 109

of minorities prepared the ground for the rise and spread of revolutionary ideas In no other country in Europe were conditions so bad as in Russia The Czars crushed all opposition to their government with a measure of ruthlessness having few parallels in the world They deceived themselves ultimately in seeking refuge in the blind belief that the people could be eternally suppressed and the song of exploitation would continue for ever

Entry of Communist Ideas In spite of the drastic measures taken by the Czars to build a China Wall against the entry of liberal ideas, socialist and communist ideas trickled into the country It is surprising that the Czar allowed *Das Kapital* to be translated into Russian, perhaps the censors felt that owing to its difficult language many might not read it at all Lenin Trotsky and others organised the masses of the exploited people in Russia Though the Revolution of 1905 was a failure, it taught many invaluable lessons to the leaders who did not forget on the eve of the Revolution of 1917 what they had learnt from experience In 1917 the Czarist regime was overthrown, and Russia established a communist government This revolution took place 34 years after the death of Karl Marx

The Bolsheviks, who called themselves communists captured power on November 7, 1917 and formed a Soviet Republic in which power was vested in a Congress of Workers Councils or Soviet They signed the peace of Brest-Litovsk in 1917, and Russia pulled herself out of World War I Civil war broke out and continued for four years (1917–21) During this time, the Bolsheviks remained in saddle Under Lenin the Bolsheviks claimed that they established the standard pattern of revolutionary socialism, which was to be a world-wide movement Leninism was vehemently opposed to democracy and parliamentary institutions People of moderate views were condemned as traitors, opportunists, stooges or running dogs of capitalists and lackeys of imperialists

Nikolai Lenin (1870-1924) Lenin, who succeeded in establishing the dictatorship of the proletariat in Russia himself did not belong to the proletariat class His real name was Vladimir Ilyich Ulianov His father was a government inspector of schools Born in 1870, Lenin did not share the pangs of misery of the proletariat On the other hand, as a young man he experienced reasonable comfort and got good formal education

Lenin became a socialist at the age of 17 particularly because his elder brother was hanged for plotting against the life of Czar

Alexander III Owing to his revolutionary views, he was expelled from the University of Kazan After his legal education at St Petersburg, he did not practise law, but became a professional revolutionary at the age of 23 During 1897–1900 he was exiled in Siberia He spent most of the years during the period 1900–1917 in Western Europe working for the cause of the Social Democratic Party of Russia He wrote a revolutionary pamphlet *What Is To Be Done?* (1902) in which he clearly marked out the goal of communism and outlined the strategy to be followed In 1905 Lenin was present in Russia for some time during the Revolution

In March 1917 the Cazr abdicated, and the Mensheviks formed the provisional government under the leadership of Alexander Kerensky It seemed as if a change of government had taken place through a bloodless revolution, but between March 1917 and November 1917 the Bolsheviks used all their resources to seize power The Bolsheviks and the Mensheviks were followers of Marx Plekhanov, the 'grand old man' and Lenin's early teacher was a great Menshevik leader Both the types of Marxists were against the Czarist regime However, they differed from each other regarding strategy and tactics While the Bolsheviks thought that the time had come to strike, the Mensheviks felt that the conditions were not mature for a revolution They were in favour of a bourgeois revolution and the formation of a democratic government with a capitalist economy A bloody revolution could take place in Russia only after a certain period

It is interesting to note that in 1917 Kerensky's Government had issued a warrant for Lenin's arrest to escape from which he was hiding beside the Finnish border In 1917 Lenin wrote the *State and Revolution* The Menshevik Government was overthrown by the Bolsheviks, who were led by Lenin and Trotsky The success of the Bolshevik Revolution in November 1917 was owing to the dynamic leadership of Lenin The Bolshevik Government had to face tough opposition, civil war broke out in 1917 and lasted till 1921

Lenin, an Extraordinary Theoretician and Practical Politician Lenin was the architect of the Bolshevik Revolution Nikolai Bukharin and Leon Trotsky were Russian theorists, who were intimate with Lenin and shared his views regarding Soviet policy He combined in himself the ability of an extraordinary theoretician

and the capacity of a practical politician, who could fight against all odds "Nikolai Lenin, the now beatified saint of Bolshevism was not only a revolutionary leader of great sagacity and practical ability, but was also a writer and thinker of exceptional penetration and power He claimed to be nothing more than a faithful disciple and authentic interpreter of Marx and Engels, but he was also a thorough student of Hegel and his writings reveal a mind quite aware of the deeper philosophical implications of the Marxian creed [1] As a leader he was practical-minded While following Marxism, he was cautious to see that what could not be realised was not followed His approach was never doctrinaire, but all the time empirical As a hardboiled leader, he knew the pitfalls of Marxism, and so he was very careful in dealing with his adversaries (champions of the Czarist regime) To suit the conditions in Russia he modified Marxism, and revealed himself as a master-strategist

Lenin Great Leader and Organizer of Communists Lenin was a born leader and organiser He laid great emphasis on the importance of the communist party He used the party as a strong tool to see through his communist progamme Marx had only laid stress on the growth of class-consciousness but the credit of employing the party in favour of the proletariat should go to Lenin Communists were to conduct their activities through their labour organisations like trade unions and cooperatives openly and legally Besides selected and highly efficient professional revolutionaries were to secretly infiltrate all political social, economic, educational and religious organisations They were to form *cells* everywhere Even the bureaucracy, the police and the army were not to be spared Under Lenin the communists knew their destination, the goal was clearly marked out, and the way to reach the goal too was well known The communists were to engage in all kinds of legal as well as illegal activities in order to wreck the Czarist regime and seize power To mislead the world, there was to be an open leadership but the real work was to be conducted by fanatical secret agents of the communist party working underground and infiltrating everywhere

As a practical-minded Bolshevik leader, he felt that any kind of criticism from any quarter within the party should not be tolerated He wanted the party to be a strong monolith He was

1 C C Maxey *Political Philosophies* (1959) p 667

against liberals, who he felt were half-hearted and cowardly, in the interests of a compact and disciplined party such people were to be kept out

Rift between Lenin and Trotsky There was a rift between Trotsky and Lenin over matters of party discipline While Lenin believed that the party should consist of absolutely loyal and disciplined revolutionaries Trotsky felt that it was enough if a party member accepted the party programme and agreed to help the implementation of the same At the First Congress of the Russian Social Democratic Labour Party held at Brussels (and later on shifted to London) on July 30, 1906 the party broke into two groups Those who followed Trotsky and staged a walkout of the Congress came to be called Mensheviks, and those who remained loyal to Lenin and were in majority were called Bolsheviks

Lenin's Idea of World Communist Revolution Watered Down Lenin was in favour of a world communist revolution, as its enemies, world capitalism and imperialism had to be got rid of But as an experienced revolutionary leader, he thought about the possibility of "socialism in a single country" (This idea was pursued by his successor Stalin, who was as practical as Lenin was, but decidedly inferior to him in intellectual calibre)

No Stake for Workers in War Lenin believed that the export of capital and the cultivation of huge capitalist monopolies led to imperialism and scramble for markets Capitalists, according to him, had high stakes not only in their own countries but all over the world In a war, the product of capitalism and imperialism, the workers had no stake Russia had to withdraw from World War I ignominiously long before the war ended Lenin asked the workers of his country to convert the imperialist war into a civil war

Return of Lenin to Russia In 1917 the German Government enabled Lenin to return to Russia from Switzerland because it felt that Lenin's presence in Russia would unleash forces of civil war But the hopes of Germany were falsified Though civil war broke out in Russia, the country was not broken, On the contrary in the days of Stalin, Russia emerged as a first rate power

Belief in Withering of State Lenin [illegible] in terms of [illegible] withering of the state The army would be got rid of [illegible] would be replaced by a popular militia The bureaucracy would also be abolished

Against Bourgeois Parliaments Lenin was in favour of institutions run by elected representatives but he was dead against bourgeois parliaments which he characterised as talking shops

Lenin's Contributions The following were the contributions of Lenin

1 **Demonstration of Marxian Ideas** Lenin's greatest contribution lies in giving practical demonstration of Marxian ideas Though Marx did not engineer a revolution himself, Lenin following Marxist dialectical and historical materialism revealed Marxism as a living force in Soviet Russia and not just an empty theory in books While Marx provided the bare outline of the Dictatorship of the Proletariat, it was left to Lenin to work out the actual details and condition Marxian ideology to suit the Russian context The ideas of Marx were clearly spelt out in the form of the Bolshevik organisation, "The dictatorship is a matter of revolutionary tactics, and while Marx was no stranger to agitation, he really had little to say about the details of revolution, and almost nothing about what would follow it "[1]

2 **Dictatorship of Communist Party instead of Dictatorship of Proletariat** Lenin followed Marxism wherever possible, and modified it wherever necessary Between the Dictatorship of the Proletariat and the Dictatorship of the Communist Party, as a realist, he preferred the latter Under him Russia developed not a Dictatorship of the Proletariat, but a *Dictatorship of the Communist Party* Lenin felt that there could be no Dictotarship of the Proletariat without the rise of the communist party Trade union consciousness among workers was not enough, it was also necessary to have a very strong party consciousness In Soviet Russia, the greatest care is taken to maintain party solidarity and infuse new blood into it The communist party has feeders in the form of youth organisation The Union of Communist Youth has boys and girls between 14 and 23 on its rolls, and there is another organisation for youngsters between 10 and 14 Lenin expected all to be objective in their approach ' Theory and practice should be absolutely integrated with reference to the ultimate goal. Violence should be used when practical gains would result likewise moderation Compromise and retreat should be governed by the same rule To attempt to leap at once to communism was madness "[2]

1 L W Lancaster *Masters of Political Thought* Vol III (1958) p 181
2 C C Maxey *Political Philosophies* (1959) p 672

3 New Economic Policy Lenin as a dynamic and practical-minded leader averse to a doctrinaire approach revealed himself when War Communism (1917–21) in Russia was facing crisis of production He realised his mistake and announced concessions to private property through his *New Economic Policy* The NEP was introduced in 1921, it lasted for about seven years, and was ended by Stalin in 1928

4 High Industrialisation not Necessary for Revolution Lenin actually showed by the Bolshevik Revolution, that contrary to Marxi m, which expected revolution only in a highly industria lised country, it was possible to have revolution in Russia, the stronghold of feudalism and not of high industrialisation

5 Possibility of Socialism in One Country As a realist again "Lenin revised Marx by giving a national interpretation to Marxism, which had been primarily international He invented the theory of the possibility of *socialism in one country*"[1]

F Stalinism

Trotsky's Thought of International Communism and Stalin's Thought of National Communism Lenin died in 1924, and a fierce struggle for leadership between Trotsky and Stalin, the lieutenants of Lenin broke out The burning issue beween them was whether there should be socialism in a single country or there should be a world socialist revolution Stalin, a firm believer in the principle of *socialism in one country* succeeded, and his stand was approved by the Fourteenth Congress in December, 1925 It is interesting to note here that till April, 1924, Stalin was in favour of the view that the Russian Revolution needed the sup port of the proletariat of Europe, and Russia should aim at a world revolution, but suddenly Stalin changed his attitude In changing his mind, Stalin showed that he was prepared to modify Marxism International communism formed the nucleus in the thought of Marx, Engels, Lenin and Trotsky, in Stalin's thought national communism was the soul International communism was not overlooked by Stalin altogether, but it was given a second place As the ruthless party boss, Stalin followed Lenin's example of keeping the party as compact as possible, he rejected the proposal at the Fourteenth Congress to broaden the base of his party Stalin also did not subscribe to the idea of the state withering away

1 E. Asirvatham *Political Theory* (1957) p 243

In fact, Stalin went on increasing his authority as the Party Boss and Dictator of Soviet Russia

Trotsky (1870-1940) Leon Bronstein, later on called Leon Trotsky was born in 1879 His father, a successful farmer was a Jew Like Lenin, he indulged in revolutionary activities and was arrested in 1898 He disagreed with Lenin and was a member of the Menshevik party He played an important part in the Revolution of 1905

He joined the Bolsheviks in 1917, and like Lenin played a leading role in the revolution He became the Chairman of the Petrograd Soviet in 1917 As Commissioner of Foreign Affairs (1917-18) and Commissioner of the Army and Navy (1918-25), he handled foreign affairs He also carried on negotiations with Germany for signing the Brest-Litovsk Peace Treaty During 1918-21 he organized the railways and the army He was a leading Bolshevik orator and a highly distinguished writer

On the death of Lenin in 1924, Stalin and Zinoviev conspired to exclude Trotsky from the Committee of the Politbureau, and early in 1925 Trotsky had to give up his post as the Commissioner of War Trotsky was exiled to Siberia in 1927, and two years later deported to Constantinople In 1940 he was murdered in Mexico

Trotsky was a thorough revolutionary, who believed in the establishment of world communism He felt that communism in Russia alone could not survive unless it spread all over the world

Joseph Stalin (1879-1953) Joseph Stalin the son of a shoemaker was born in 1879 Like Lenin and Trotsky, he became a revolutionary, and in 1870 he joined the Tiflis Marxist Organisation For revolutionary activities, he was arrested in 1902 and exiled to Siberia He started underground activity and was exiled again in 1913 In 1917 he returned and participated in the Revolution under Lenin's leadership He became a member of the Politbureau of the Central Committee in 1920

After Lenin's death in January 1924 Stalin crossed swords with Trotsky Taking full advantage of Trotsky's absence from the capital in 1924, Stalin drew up his plan to get rid of his rivals Besides Trotsky, Stalin got rid of Zinoviev, Kamenov, Rykov and Tomsky

To make communism a reality, Stalin ended Lenin's New Economic Policy (NEP) in 1928, and introduced the First Five

Year Plan He made the Russians sacrifice much for the sake of nation-building activities He wanted to industrialise Russia rapidly and increase agricultural production through collective farming He thought mechanisation of agriculture, public ownership of farms as means of production and totalitarian control were possible only through forced collectivisation on the farmers Those who went against Stalin' plans were brutally suppressed The cost of Stalin's social and economic revolution in terms of human lives during 1929-33 was about forty or fifty lakhs, who were either uprooted from their homes and sent to slave labour camps or were actually subjected to slow and painful death

Stalin's plan of heavy industrialisation brought Soviet Russia *next to the USA in industrial power Before World War I, Russia* was primarily an agricultural country and in industry she was far behind America England, Germany, Austria and Japan The breathtaking progress of Russia's industrialisation was owing to Stalin's lead

Dictatorial Power at Home and Imperialism Abroad Stalin *followed the policy of oppression at home and aggression abroad* As chief of the Government and supreme boss of the Communist Party, Stalin wielded unlimited power, which perhaps no king or leader exercised anywhere else in the world Nobody in Russia dared to cross his path, and those who went against him paid with their lives All had to bow down to him and worship him Thus the way was cleared for the Stalin cult

Though communism expressed itself against religion as opium, communism of the Stalinist brand tolerated and even encouraged *worship*, if it was the worship of *God Stalin* ! Those who did not agree with Stalin had to suffer degradation, torture or death Thousands of people were arrested, thousands deported and driven to slave camps and thousands "tried" and executed for the "guilt" they "confessed"

In the International field also, Stalin's policy was cunning and opportunist Stalin's Russia joined the League of Nations in 1930 When Stalin could not get support from democracies to serve his selfish ends, he made a non-aggression pact in 1939 with Hitler, the dictator of Nazi Germany Hitler committed aggression on Western Europeon countries, and Stalin on Eastern Europeon countries But Hitler betrayed Stalin and disregarding the non-aggression pact attacked Russia on June 22, 1941

Comintern, as an unnecessary obstacle in the way of Russia's war efforts Between nationalism and international communism, he preferred the former

Stalin's Highhandedness and Bullying Tactics in Dealing with Foreign Communists Stalin wanted international communism to be like a monolith, and wished to control communist leaders in other countries also Communists all over the world were to regard him as a high priest and boss, and constantly turn to him for guidance In other words, they were to be treated as communist vassals, who could be bullied into submission, if they went against him As an undisputed leader of communist countries, Stalin's Russia interfered in the affairs of other countries and wielded the big stick in dealing with them, if they happened to be weak Soviet leaders seized apportunities to exercise control over the weak communist parties in Bulgaria, Czechoslovakia, Hungary and Rumania

Tito's Challenge President Tito of Yugoslavia challenged Soviet leadership He expressed his unwillingness to be Russia's camp follower and to accept the Soviet brand of socialism The success of the communist revolution in Yugoslavia was not owing to Stalin's help, and Tito felt that he was not under the obligation of Stalin The Soviet dictator condemned Tito as a defector in 1948, and expelled him from the Cominform According to Stalin, Tito s crime was his independent approach and nationalism

Russia's Communist and Non Communist Satellites Stalin planned to have as many communist as well as non-communist states as the Soviet Union's satellites In foreign policy, he was prepared to support even anti-communist states, provided they were weak, anti-British and anti-American Soviet Russia's support to the regime of Premier Mossadeq of Iran can be explained by the fact that he was bent upon destroying British and American power and influence in Iran Similarly, Russia s support to General Peron's dictatorship in Argentina can be explained in the same way

Leninism was twisted by Stalin whenever necessary to suit his own convenience

Nation-builder In spite of all the excesses and crimes, which stand to the discredit of Stalin, he has to be regarded as a great nation-builder The son of a cobbler rising to dizzy heights of power was not a mean achievement The spectacular achievements

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through Stalin's Five Year Plans brought Soviet Russia to the fore front, and she could bargain on terms of equality with the Western Powers Lenin's New Economic Policy (NEP) which was introduced in 1921 was ended by Stalin in 1928, the year in which the First Five Year Plan was begun

Stalin's Ego Russia had never witnessed such terror and violence as in the Stalinist regime and in 1953 when Stalin died the country mu t have secretly heaved a sigh of relief (Though Krushchev and others were not to change communism to favour its enemies they felt that Stalin had overreached himself even by the communist standards) What was most disgusting was Stalin s boundless ego Stalin boasted of his great achievement and allowed himself to be flattered in the most extravagant lang uage Extracts from Soviet books and journals testify to Stalin's egoism (1) Stalin! Always we hear in our souls his dear name And here in the Kremlin, his presence touches us at every step We walk on stones, which he may have trod recently Let us fall on our knees and kiss those holy footprints ' (From the book, *The Russian Land* 1946) (2) I love a young woman with a renew ed love and I shall perpetuate myself in my children—all thanks to Thee, great educator Stalin And when the woman I love presents me with a child the first word it shall utter will be Stalin " (A writer in the *Pravda* February 1 1935)' Stalin made himself a mysterious personality, and guarded himself and his power in devious ways As Stalin s iron grip of the Soviet State and party was broken by death, there was also pierced the aura of menacing inscrutability with which he had veiled Russia during the decades of the 1930 s and 1940 s As more sustained contact has been achieved there has developed a soundly based realisa tion of some of the international difficulties faced by Soviet ociety, and recent years have seen a stream of valuable and authoritative writings on the various aspects of life in the Soviet Union "[2]

G After Stalin

Criticism of Stalin s Personality Cult Very important deve lopments took place in Russia after Stalin s death in 1953 Stalin was succeeded by Malenkov Then came Bulganin, who was ousted from power by Krushchev At the Twentieth Congress of the Soviet Communist Party on February 14, 1956 the personality cult deve

1 *Problems of Communism* (March–April 1963) p 87
2 Grimes and Horwitz *Modern Political Ideologies* (1959) p 212

loped in Stalin's time was severely criticised as contrary to the spirit of Marxism-Leninism Krushchev and Mikoyan criticised Stalinism strongly for distorting Marxism-Leninism, and the process of denigrating Stalin gathered momentum in Russia

Modification of Communist Doctrines The Twentieth Congress wanted to adapt itself to the changing times It did away with the rigidity of the Stalinist era, and modified communist doctrines

(1) The concept of inevitability of war between capitalist states and communist states was given up

(2) It was admitted that ocialism could be reached through different paths

(3) It was also admitted that there was the possibility of achieving socialism through parliamentary methods

(4) It was possible to cooperate with social democrats

The modifications made at the Twentieth Congress enabled communist parties abroad in capitalist countries to adopt a new approach In India the communists followed an unusual course in the light of the new development in Soviet Russia The Communist Party which got the lead in the elections in Kerala in 1957 invited the Praja Socialist Party to collaborate with it and form a coalition that the Praja Socialists did not accept the invitation is a different matter The Communists were able to form a government in the State of Kerala, as they were able to annex 60 out of 120 seats in the State Legislative Assembly After the General Election 1967, E M S Namboodiripad the communist leader heading the United Front of Leftists formed a ministry in Kerala, but this had to resign towards the end of 1969

Lifting of Iron Curtain In the days of Stalin, the outside world found it difficult to pierce through the iron curtain But under Bulganin and Krushchev, the curtain was lifted and outside dignitaries were invited to Russia The Russian leaders also showed the spirit of reciprocity and visited foreign countries The visit of leaders like Bulganin and Krushchev to India and particularly Krushchev's visit to the USA were unusual events " Krushchev s great popular success inside the Soviet Union lay not in warlike threats, but in dramatizing the post-Stalin improvement in living standards and concretely setting up goals of better living, more creature comforts and increased leisure time—a practice hitherto unknown in Soviet society In short, Krushchev accented the positive

By admitting foreign tourists, and even letting selected groups of Soviet citizens go abroad by dwelling on concrete achievements of Soviet technology, he publicly invited competition with the *capitalist camp* [1]

Theory and Practice of Communism under Krushchev There is no doubt that under Nikita Krushchev, Stalin's successor the Soviet Union changed its attitude At the Twentieth Congress of the Russian Communist Party (February 14 1956) Krushchev accepted the following five principles

(1) peaceful co existence
(2) non-aggression
(3) non-intervention in the domestic affairs of other states
(4) mutual respect for territorial integrity and sovereignty, and
(5) equality and mutual benefit

Krushchev's utterances at the Congress regarding these should not be taken at their face value in fact it would be wrong to imagine that liberalism has been introduced in Soviet Russia Events since the meeting of the Twentieth Congress prove that Russia still attaches great importance to brute force in the interests of international communism

Hungarian Revolution About nine months after Krushchev accepted the five principles he was instrumental in the brutal suppression of the Hungarian Revolution in 1956 (October and November) Though Krushchev himself denigrated Stalin, and wanted to bring about de-Stalinisation in Russia he declared on January 1 1957 that communists were all Stalinists as far as fighting imperialism was concerned

Moscow Conference of 1960 In December 1960 a world Communist Conference was held in Moscow with the aim of reaching an undesrtanding among the various communist parties of the world This conference in which 74 parties participated adopted a statement of policy Though China agreed to follow the policy she violated it in practice

The Twenty-second Congress The Twenty-second Congress (October 1961) drew the following principles for the construction of communist society over a period of 20 years

1 **Classless Social System** Communism a classless social system is to be achieved through a high degree of communist

1 Frank Gibney *The Krushchev Pattern* (1960) p 25

consciousness In the new social structure, distinction between workers and peasants, town and country, physical labour and mental labour would be removed

2 **All to Benefit** Production in communist society will provide everyone with material and cultural benefits according to his needs Each individual will be allowed to own articles of personal use

3 **State of Whole People** The Dictatorship of the Proletariat, which has already achieved its objective is no more indispensable, and the state of Proletariat Dictatorship yields place to a state of the Whole People

4 **Withering of State after Much Development** Only after a highly developed communist society comes into being and socialism triumphs at home and abroad, the state will wither away

5 **Co-existence** In foreign relations, the general principle of co-existence of states with varied social systems is accepted

6 **Strengthening Army** The USSR needs no army for internal purposes, but as the threat of war may come from imperialist camps, it is necessary to maintain and strengthen armies

Russia's Actual Experience and Modification of Principles In the light of actual experience, Russian Communist leaders had to modify their views and sometimes go against what they upheld most fanatically Lenin himself had to make concessions to privateproperty through his New Economic Policy (1921–8) when production figures went alarmingly low Besides, the Russians agreed to pay according to the actual results of work and finally they had to give up the principle, "from each according to his capacity, to each according to his needs' in favour of the new principle, 'from each according to his capacity, to each according to his merit" It has also to be noted that equality for which Russian revolutionaries shed so much blood could not be realised as they had originally dreamt Similarly, the withering of the state has not been experienced

Fall of Krushchev In October 1964, the 70 year old Nikita Krushchev, who had dominated as the Communist Party Secretary and Premier of Soviet Russia 'resigned" Then Alexei Kosygin became Premier, and Leonid Brezhnev became Party Secretary

The following were the causes which led to the overthrow of Krushchev and his "Brains Trust"

1 Undermined Unity Critics of Krushchev said that he w[as] trying to uphold methods which had become anachronistic, an[d] he failed to keep pace with the currents of change in the world of communism Krushchev's policy it was believed, did serious damage to the Soviet Communist Party, and lowered it in the eyes of the world (But here it has to be stated that Krushchev alone was not responsible for the development of cracks in the comm-unist parties in the various parts of the world Even if Krushch[ev] was responsible for accepting the principle that different roa[ds] lead to socialism and for giving freedom to communist partie[s] in the different parts of the world Krushchev's fall did not repair the cracks in the wall of international communism On the contrary, after his exit, communist parties assumed in other countries new independent postures)

2 Abortive Efforts to Denigrate and Expel China from Communist World The Chinese leaders like Mao Tse-tung and Chou En-lai were criticising the Russian leaders for what they called "revisionism" and the relations between Soviet Russia and Red China were strained From time to time Mao and his friends openly and vulgarly lashed out against Krushchev and therefore Krushchev wanted to take revenge on China Since September 1963, and particularly in April 1964, it was clear that Krushchev was trying to hold an international conference of communist parties to expose and condemn China This attitude of Krushchev was not liked even by foreign communist parties who did not agree with China Italian Rumanian British Yugoslav Swedish and Norwegian communists feared and criticised Krushchev's "method of excommunication Efforts to push out China from the communist world and tighten interparty discipline made Krushchev unpopular His dogged determination to bring Communist China to its knees at all costs paradoxically only succeeded in raising Peking to the status of a true ideological rival to Moscow At the same time and equally important it allowed the East European bloc and communist parties round the world to begin to disengage themselves from the once complete hegemony of Russia "

Krushchev was blamed for handling the Chinese problem tactlessly, promoting disunity among communists and lowering Russia's status in the international sphere Togliatti the General Secretary of the Italian Communist Party had emphasised before his death in August 1964 the need of communist unity in the world against which Krushchev had gone

3 Personality Cult While Krushchev had criticised (after the death of Stalin) the personality cult of Stalin, Krushchev himself developed a similar cult

4 Incorrect Economic Policies Krushchev was held responsible for following wrong economic policies Disruption in economic plans, "drift and indecision" in farm policies, and over emphasis on consumer's goods at the cost of heavy industry came in for strong criticism

5 Errors in General Many errors alleged to have been committed by Krushchev came in for the most scathing criticism in public A 40-page document listing 29 mistakes of Krushchev was circulated among the members of the party organization Incorrect policy towards China, withdrawal of missiles from Cuba in 1962 after adventurist installation in the light of US President J F Kennedy's tough policy, faulty policy concerning the Suez Canal crisis *(1956)*, '*assisting India" during the Chinese invasion*, undignified behaviour, making impromptu speeches, taking decisions without consulting others and acts of nepotism were criticised in the document

When China attacked India in October 1962, Krushchev refused to come to India's aid After all a red country could not be attacked for upholding the right cause of a country like India But he did not help China against India This roused the anger of the Chinese reds against Krushchev

After Krushchev When Nikita Krushchev was forced to resign in October 1964, Alexei Kosygin became Premier Since then, there has been no improvement in inter-party relations, and solidarity of communist parties in the international field is conspicuous by its absence Sino-Russian relations deteriorated instead of improving and Mao Tse-tung Lin Piao and their friends in China continued to insult Soviet leadership The crazy Red Guards of China lost all sense of decency in criticising Russian leaders and misbehaving towards Soviet citizens in Peking In February 1967, the Soviet Union issued a warning to China that it would be forced to take action on the latter to protect the security of Russian citizens in Peking A statement of the Soviet Government issued in the *Tass* in February, 1967 said "The things now happening in Peking are even more cynical than the actions of Chiang Kai-shek authorities in the darkest periods of their reactionary domination" Early in 1967, it was reported that there was a

possibility of a serious military clash with China, as the anti-Soviet policy of Mao Tse-tung had entered a new, dangerous phase The Chinese loudly said that they wished to regain land in Siberia and Central Asia, which Russia had "stolen" from them

Alexei Kosygin In October 1964, Alexei Kosygin came to power, and in August 1966 (when he was 62) he was re-elected Premier Kosygin is really tough, and his appearance is deceptive. One who could oust Krushchev had to be indeed very stro Though he cunningly stagemanaged the exit of Krushchev, Kosy does not wish to reverse all the policies of Krushchev He do not follow any rigid theory, which is out of tune with the time He is cool and calculating, and refuses to be ruffled He neve takes hasty steps He hit out against China only when all his patience as a seasoned and responsible leader was exhausted

Like Krushchev, Kosygin continues the policy of de-Stalinisa tion, and continues to adhere to the principle of "different roads to socialism" and *detente* with the West "Kosygin and his colle agues, for all their avowed adherence to Marxist-Leninist ideology are pragmatists like Krushchev They know that none of the basic texts of the creed provided ready-made answers to new problems"

Rape of Czechoslovakia under Kosygin Even under Kosygin Soviet Russia has not given up her old policies and tactic, prac tised in Stalin's time Kosygin wanted to bully Czechoslovakia into submission as the Czechoslovak Communist leaders had started a process of liberalisation In the early hours of August 20, 1968, the Warsaw Pact Powers (the Soviet Union East Ger many Bulgaria, Hungary and Poland) invaded Prague (the capital of Czechoslovakia) and other important cities An army of an estimated strength of 1 75 000 committed rape on Czechoslovakia only 17 days after the Warsaw Pact Powers had assured Czecho slovakia that they would not interfere in the internal affairs of other nations The Soviet Union said that military "assistance" was sought by the Party and Government leaders of the Czechoslovak Republic to fight against counter-revolutionary forces

The Czechoslovaks remembered how Hitler had overrun their country in 1938 and 1939 on the pretext of assisting them in the same manner in which Soviet Russia did in 1968 Alexander Dubcek, Chief of the Czechoslovak Communist Party, Premier Cernik, and Assembly Chairman Smrkovsky were arrested and taken to an unknown destination

The Soviet leaders felt, that if Czechoslovak liberalisation programme continued unchecked with their consent, similar movements might begin in other satellite communist countries also Premier Kosygin and Party Boss Brezhnev thought that such action was necessary for them to remain in power On August 21, 1968 George W Ball US representative to the United Nations said in the Security Council "The grim parallel between Buda pest in 1956 and Prague in 1968 is only too apparent Surely there were grounds for hope that, as the Stalin era receded year by year, the leaders in Moscow would shake of the political fears and frenzies of the past and would stop demanding slavish con formity as the price of friendship But all these hopes now appear shattered by the invasion of Czechoslovakia by her own Warsaw Pact Allies, led by the Soviet Union "

Brezhnev Doctrine Despite earlier de-Stalinization, the Soviet Union under the leadership of Brezhnev (Party chief) and Kosygin (Premier) desired other communist countries to toe the Soviet line Indiscipline and liberalisation against international communism had to be dealt with sternly The invasion of Czechoslovakia had to be justified on the basis of the Brezhnev Doctrine, which was enun ciated in September 1968 The doctrine spells out "There is no doubt that the peoples of the socialist countries and the communist parties have, and must have, freedom to determine their country's path of development However any decision of theirs must damage neither socialism in their own country nor the fundamental interest of the other socialist countries, nor the worldwide workers' move ment which is waging a struggle for socialism This means that every communist party is responsible not only to its own people but also to all socialist countries and to the entire communist movement "

The Brezhnev Doctrine gave a threat to other communist countries like Rumania [1]

Seeing serious threat to their power, the Soviet leaders pushed the principle of "multiple paths to socialism" into the background and revived "the old language and ideas of the Comintern founders "[2]

Moscow Conference of 1969 In June 1969, a world Commu nist Conference was held in Moscow The holding of this con

1 See *Problems of Communism* (March–April 1969)
2 See *Problems of Communism* (May–June 1969)

to cooperate with each other against the foreign aggressors, there could be really no love lost between the two

The communists were bent on seizing power, and hence a civil war was inevitable During World War II (1939–45), as Soviet Russia and (Kuomintang) China were fighting on the same side against the Axis Powers (Germany, Italy and Japan), Stalin advised the Chinese communists to help the Kuomintang government, but contrary to this, the communists fought relentlessly against Chiang Kai-shek The communists pushed forward inch by inch, and in the early forties covered a very vast area, in 1949 they succeeded in expelling Chiang to Formosa Chiang could have been easily dislodged from Formosa too, but for the continued military and other assistance that he has been receiving from the USA

Mao Tse-tung Leninist Revolutionary Mao Tse-tung, the greatest leader in Communist China, and one of the giants in the world of communism is a Leninist revolutionary and a fanatical nationalist The hard school of experience taught him many things Overcoming all obstacles with extraordinary courage and dogged determination he and his comrades steadily cut their way forward, and their bloody revolution was completed in China in 1949 Mao and his comrades had learnt much from Soviet Russia, and they succeeded in dealing with feudal, capitalist and imperialist elements in the communist way of liquidation

Peasant Proprietorship Allowed For some time at least, Mao did not go so far as Stalin in getting rid of his enemies While Soviet Russia introduced collective farms, China allowed peasant proprietorship to continue, provided the holder of the land tilled it himself Mao differentiated the rural proletariat from the urban, and laid particular stress on the importance of the farmer

Five Year Plans China introduced Five Year Plans the First was during 1953–57 and the Second during 1957-62

New Democracy under Mao According to Mao, democracy as found in capitalist countries is false Theoretically, he speaks in terms of establishing New Democracy or People's Democratic Dictatorship Workers peasants and the petty and national bourgeoisie form the people Mao combines ' democracy for the people and dictatorship over the reactionaries " The world now knows the true meaning of New Democracy It is the Chinese brand of

ference itself was a victory to the Soviet Union (See later pa of this chapter for details)

H Communism in China

Problems of Republican China and Inspiration of Bolsheviks After the overthrow of the Manchu Dynasty, China became a Republic (1911) with Dr Sun Yat-sen as its first President Dr Sun who has been regarded as the Father of Modern China strongly upheld the three principles of Nationalism, Democracy and People s Livelihood (or sociali m) Unfortunately, the Republic did not live up to the people s expectations

The selfishness of the leaders and the continuous exploitation of the people brought about great frustration in the country, and the people looked to the Bolshevik revolutionaries of Russia for inspiration The success of the Russian Revolution (1917) had its echoes in China

Li Tao chao and Mao Tse-tung Li Tao-chao, the great Chinese philosopher who was deeply impressed by Russia's achievements called upon his follower Mao Tse-tung to be a communist Dr Sun Yat sen himself became a communist sympathiser The Government headed by Chiang Kai-shek, the successor of Dr Sun could not check the rising tide of communism, which had its stronghold in the Chinese nerve centres like Peking Canton, Shanghai and Hunan

Chiang took drastic steps to purge the Kuomintang, the party established by Dr Sun of communist elements Revolutionaries were expelled in large numbers and many were shot dead Borodin the Russian communist leader, who was in China left the country

Chiang Overthrown by Communist Revolutionaries Chiang Kai-shek was incapable of solving the problems of the people Nepotism corruption and other ugly features of the Republic utterly discredited the government the people felt badly betrayed, and naturally the ranks of the communists swelled in no time Mao Tse-tung became a great revolutionary leader in China As an organiser of a mass movement, he succeeded fully and in 1931 he became the Chairman of the new Soviet Provisional Government Chiang s government was further discredited when it would not resist the Japanese aggression on Manchuria in 1931 Though in 1935 the Kuomintang and the Communist Party agreed

to cooperate with each other against the foreign aggressors, there could be really no love lost between the two

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ruthless authoritarianism, totalitarianism and communist party dictatorship

Maoism Mao clearly developed a set of principles, which go by the name of Maoism The following are the basic ideas of Maoism

1 Marxism Leninism Maoism is a combination of Marxism and Leninism and it sets its face squarely against revisionism of any type Its main target of attack today is the revisionism in Soviet Russia

2 Wars and Revolutions Mao is a great believer in wars and revolutions He favours people's war in any part of the world for the liberation of people from the clutches of capitalists and imperialists Mao's great ambition is to 'liberate' the peoples in the various Afro-Asian countries under the inspiration and guidance of China For instance the Chinese were responsible to spread communism in Indonesia and the Indonesian communists got help from Mao s China to stage the abortive *coup* in Indonesia in 1965 President Sukarno, the charismatic leader of Indonesia for 22 years became a stooge of Mao's China He walked into the Chinese trap and after the abortive *coup* he stood fully discredited and exposed before his country which he had "pledged" and later 'sold" to China As a Chinese stooge he was overthrown (See Chapter 40 for Sukarno) Activities of subversion are going on in several Afro-Asian and Latin American countries Mao speaks of energised will, which enables the individual to consider struggle as a political goal and to find great happiness in struggle

3 Anti-Imperialist and Anti-American Maoism is thoroughly anti-capitalist and anti-imperialist Mao and his supporters never miss an opportunity to condemn in the most abusive language American imperialism All countries friendly with the USA are regarded as the enemies of the People s Republic of China Even non-aligned countries like India are criticised as pro-imperialist Soviet Russia s efforts to bring about a *detente* with the West have been strongly criticised

4 China as Leader of the World and Threat to World Peace China should become the leader of the world Therefore she has armed herself to the teeth and wants to commit aggression on other countries wherever possible In October 1962, China betrayed India s friendship and committed aggression on India to degrade her in Asia and to become the leader of the Afro-Asian world

On December 28, 1966, China conducted her fifth nuclear test and showed the world how important she had become militarily Mao lays great stress on the importance of militarism and firmly believes that power comes from the barrel of a gun Under Mao the Chinese Dragon has become a real threat to world peace

5 **Anti-Revisionist and Anti-Russian** Mao, as follower of Marx and Lenin is against revisionism As a non-revisionist, he wants only states fully given to non-revisionist thinking to have relations with China

6 **Against Intellectual Freedom** In Mao's China, there is no freedom of thought Though Mao's principle *Let Hundred Flowers Bloom* gave intellectual freedom, it did not last long, for the power-drunk communist leaders found their position untenable and the original tight control over all aspects of life had to be reimposed Today, Mao expects all people to follow his thoughts When his policies particularly the Big Leap and Communes programme (begun in 1958) were criticised as unrealistic and utopian, Mao resorted to ruthless methods to suppress freedom of thought and in 1959 there was a big purge in leadership

Setback to Mao Tse-tung The exact picture of the conditions prevailing in China since the communists seized power in 1949 cannot be given Like the Russian society in the days of Stalin, the Chinese society in the days of Mao is a closed one There have been conflicting reports about China But in recent years it is becoming increasingly clear that Mao has received a great setback

The following causes explain the setback

1 **Personality Cult** Like Stalin in Soviet Russia, Mao developed the personality cult He wants people to regard him as the Leader of the world Revolutionary Movement, the Lenin of Today, the Great Genius, the Greatest Marxist of the Present Era and so on

2 **Failure of Big Leap** The masses of people suffered much under Mao during 1949-53 but they expected spectacular results from the Five Year Plans The failure of the plans and the great setback to Mao's Great Leap brought about great frustration and anger among the people Even the top-ranking leaders of the communist party criticised Mao

3 **Failure of Foreign Policy** The spectacular results expected of Mao's foreign policy did not materialise Anti-capitalist anti-imperialist and aggressive activities directed by Mao and his

comrades failed The failure of the communist *coup* in Indonesia (1965) and the ignominious fall of Sukarno, aggression on India, ideological criticism of Soviet Russia and other factors proved the hollowness of Mao s claims

Action Taken by Mao To his great surprise and disappointment, Mao Tse-tung found treachery, revisionism, bourgeois tendencies lack of willingness and criticism not only among the ordinary leaders but also in the top echelons of the party Fearing that he might be overthrown Mao wanted to nip mischief in the bud Hence there were purges Mao also desired to usher in a new Proletarian Cultural Revolution, and to see through it he created the Red Guards

Purges From time to time purges took place in the communist party

In 1959 those who criticised the Big Leap were purged Among them were Marshal Peng Te-huai and his friends

In 1965 great changes took place 'One after another in several stages subordinates whom Mao had long trusted and raised up were subjected to a final test found wanting and purged ' Lo Gui-ching, the Army Chief of Staff Peng Chen the sixth ranking Politburo member and Peking Party First Secretary, Lu Ting-yi, alternate Politburo member and the chief of the Propaganda Department and Chou Yang the Deputy Chief of the Propaganda Department were the victims of Mao's wrath and were purged in 1965

Liu Shao-chi Downgraded and Ousted The climax was reached when Liu Shao-chi (President of China and Mao's long designated heir) and Teng Hsiao-ping (Party Secretary General) were downgraded in the party hierarchy Maoists are dead earnest about their charge that Mr Liu Shao-chi is China s Krushchev For them, it is not a case of political exaggeration An impressive catalogue of 900 charges have been compiled to drive home the point that throughout his political career of over 40 years, Mr Liu has been opposed to Mr Mao Tse-tung s thoughts and favoured a *bourgeois reactionary line* of coming to terms first with Marshal Chiang Kai-shek and then with revisionist Russia and imperialist America "[1]

Towards the end of June 1967 it was announced that Liu Shao-chi the head of state who was taking the capitalist road

[1] *The Times of India* August 18 1967

was overthrown This marked the climax of the cultural revolution sweeping China The army strong man Marshal Lin Piao, Defence Minister replaced Liu (dubbed by the Red Guards as Criminal Number 1) as Mao s heir and chief comrade-in-arms Lin is believed to be the exponent of the hard line in domestic and foreign policies

Lin Piao and Others Promoted As some were disgraced and degraded, those in lower ranks, who Mao thought were worthy of trust were upgraded Lin Piao, the Defence Minister (appointed in 1959) was publicly proclaimed by Mao as his heir, and Tao Chu, Chen Po-ta and Kang Sheng, who were in lower rank in the party were promoted to the standing committee of the Politburo Lin Piao and other upgraded persons were to carry out the orders and directives of Mao

Mao's wife Chiang Ching was called upon to watch and direct the new activities to realise Mao s aims "This purpose was not merely to purge but actually to terrorise the party s central, regional and provincial apparatus in a manner that would leave a permanent imprint and ensure an atmosphere in which foot dragging or hidden opposition to Mao s will would no longer be conceivable The objective was a party Bolshevized beyond the wildest dreams of the Bolsheviks, a party of obedient worshippers at the altar of Mao s cult, a party that could be relied upon even after Mao is gone "[1]

Action against Writers Mao also took ruthless action against writers like Teng To a Secretary of the Peking Party Committee

Red Guards and Cultural Revolution Mao wanted clean Maoism and no revisionism of any type All were to be forced to toe the Maoist line All anti-Maoist thought and action were to be suppressed Evidently a new proletarian cultural revolution was necessary The leadership of the Communist Youth League was purged and its publications suppressed A new corps of young men and women was created to set the ball of the proletarian cultural revolution rolling This corps was to consist of the Red Guards whose activities hit the newspaper headlines in 1966 and 1967 Senchi Oya a Tokyo commentator used different expressions while referring to the Red Guard revolution viz Red Paint Revolution (as the Red Guards use red paint to scri

1 See *Problems of Communism* Nov -Dec 1966

everywhere), Duck Revolution (as the Red Guards quack lik ducks), and Kids Revolution (as the revolutionaries are all kids.

The Red Guards are supposed to follow five principles

(1) to regard Mao Tse tung as the leader of the world revolution

(2) to consider Maoism as the climax of Marxism—Leninism

(3) to propagate Maoism in China

(4) to canvass support and recruit supporters

(5) to struggle fearlessly to make the proletarian cultural revolution successful

In 1966 the overenthusiastic and reckless Red Guards went on rampage in China, and the victims of their wrath actually experienced hell on earth Casting decency to the winds, the young barbarians attacked ideologically and physically all those who were suspect in their eyes People suspected to have bourgeois and anti-Maoist leanings were publicly insulted and beaten Their activities showed that a ridiculous situation had developed in China

However it was clear that everywhere the Red Guards would not have their own way and bloody clashes took place between pro Maoist and anti-Maoist groups In January 1967, opposition to the Red Guards was mounting and in places like Nanking, many people were injured or killed The mischievously buoyant Red Guards made no difference between high and low in straightening people For instance Tao Chu, China's Propaganda Chief was publicly disgraced by them at a rally, where the urchins shouted "Down with Tao Chu'

In January 1967, according to Japanese sources the Red Guards repeatedly tried to storm the Central Communist Party's Head Quarters and drag out Liu Shao-chi and others

On Brink of Civil War The Red Guard Movement and the clashes in 1967 showed that China was on the brink of a civil war The 2,500,000 strong army is affected and it is divided between the camps of Mao-Lin and Liu Shao-chi Mao has not been able to carry forward with him the whole country Party leaders humiliated and degraded by Mao were thirsting for reverge

In the struggle, Chou En lai became the pacifier and held the key to the political survival of Mao

China s New Leaders In 1969, the ninth Congress of the Chinese Communist Party (CCP) created a new leadership pyramid As in the past, the Politbureau (PB) of the Central Committee (CC) is the most powerful body of the new structure Its members

are (1) Mao Tse-tung (Chairman), (2) Lin Piao (Vice-Chairman), (3) Chou En-lai, (4) Chen Po-ta, and (5) Kang Sheng Chen Po-ta is Mao's Political Secretary, Party Theoretician and ghost writer (of Mao) He has put Mao on par with Marx, Engels and Lenin

Soviet Russia has been strongly condemning Chen Po-ta, Mao and Lin Piao The Soviet press calls Chen Po-ta and Kang Sheng as life-long villains

I Sino-Soviet Conflict

We shall briefly study here the development of open ideological rupture between Soviet Russia and Communist China

The Chinese Revolution of 1949 was inspired by Soviet Russia, which had given full moral and material support to China But gradually the Chinese led by Mao became ungrateful to Soviet Russia and found out pretexts to turn against her

Serious Ideological Rift Originally, a mild whispering campaign against the Soviet Union was begun by the Chinese but nobody took them very seriously, and it was believed that the rift was a "family affair', which would soon be resolved In course of time, however, what was regarded as a passing phase, assumed serious proportions, and a clear crack in the wall of world communism appeared, as the two red giants came out into the open to indulge in the worst type of mutual recrimination

China not a Soviet Satellite Though Stalin was considered to be the "Sun" of the red world, Chinese communists did not feel like seeking inspiration from him, as they held Mao Tse-tung with greater respect and reverence While Stalin congratulated the Chinese reds on their victory over Chiang, he dared not treat them as Soviet Russia's satellites In fact, the rise of Chinese communists under Mao was a setback to Stalin as a leader of world communism However, as long as Stalin was alive, differences if any, between Soviet Russia and China did not come to the surface

Death of Stalin The death of Stalin in 1953 can be regarded as one of the important causes of widening the gulf between Soviet Russia and China

Criticism of Krushchev The policies of Krushchev were condemned by Mao Mao who is against polycentrism repeats time and again that the Russian leaders are revisionists and are faithless to Marx and Lenin China under Mao desires

seize the leadership of the communist world from Soviet Russia The Chinese communists disliked the policy of de-Stalinisation started by Krushchev, and openly declared that while Stalin was a great man, Krushchev was not competent to be the leader of world communism There was great jubilation among the Chinese, when Krushchev fell from power in 1964 The fall of Krushchev was regarded as a victory to Mao s stand and policies

Humiliation of Soviet Citizens The Red Guards too have openly insulted Soviet Russia and humiliated Soviet citizens in Peking 'Hang Kosygin', 'Hang Brezhnev', and "Long Live Lenin and Stalin', are the slogans of the Red Guards Effigies of Kosygin and Brezhnev were burnt by them according to certain sources

Charge of Collaborating with Imperialists The Chinese leaders went to the extent of accusing Russian leaders of "collaborating with imperialists The Russian leaders refused to be ruffled and provoked, and did not desire to stoop to the level of the Chinese But soon their patience was exhausted The Russian leaders strongly condemned what they called Chinese "dogmatism', and accused Mao of building up his own image instead of serving the Chinese people and upholding the cause of world communism

Clash of Attitudes and Principles There was a serious clash in the attitudes and principles of Soviet Russia and China Soviet leaders said that orthodox communism as advocated by Marx and Lenin needed modification in the changing world There could be 'several roads to socialism' instead of one road but it was possible to have peaceful revolutions and war was not inevitable But Mao and other Chinese leaders said that there should be no revision in Marxism-Leninism Bloody conflicts and wars were unavoidable, if capitalism and imperialism were to be overthrown

Krushchev, as a leader of a state, which had made tremendous progress and consolidated the great gains, could not behave in a childish manner As a seasoned leader, he knew the serious consequences of a war in the nuclear age If another world war would break out Soviet Russia was bo[illegible] to have a set-back in her progress When Kru[illegible]ev w[illegible]w missiles from Cuba in 1962 to avoid [illegible] [illegible]hine[illegible] [illegible]pportunity of condemning him again [illegible] at [illegible] the 'pap[illegible]

tiger" of Western imperialism Peace-loving nations hailed the sobriety and statesmanship of Krushchev But Mao was not prepared to show moderation and wisdom He said, that if 300 million Chinese would perish in a nuclear war, Red China would still have another 300 million (survivors), who could celebrate China's victory

At the Moscow Conference in 1957, Krushchev and other Soviet leaders called upon communist parties in various countries to develop a better sense of discipline implying that they should follow the Soviet Union's leadership but China was not prepared to respect such sermons from Soviet leaders

Bucharest Conference Despite strained relations with China, Krushchev observed self-restraint, and did not publicly name Chinese leaders in his speeches, though there was indirect criticism But in 1960 at the Bucharest Conference he criticised Mao This served as a great provocation to the Chinese delegates at the conference After the Bucharest Conference, both Soviet Russia and China openly criticised each other through the platform and the press

Warning to China Even though Krushchev fell in 1964, there was no improvement in Sino-Russian relations Kosygin, Krushchev's successor also clearly expressed himself against Mao and warned China for her anti-Russian activities In February 1967, the *Pravda*, the Soviet Communist Party newspaper criticized Mao as a renegade It also accused Mao of seeking allies in the imperialist camp and serving American interests by inflicting a blow first of all at the Vietnamese people It further said that anti-Soviet propaganda was a cloak to cover bureaucratic dictatorship of Mao and his henchmen, who were destroying the very ideals of socialism

Moscow Conference of 1969 In 1969, efforts made at the Moscow Conference to settle the Sino-Soviet differences proved to be abortive

China opposed the convening of this conference, as she was aware that the Conference would not approve of the guidelines as given by "Mao's thoughts" 74 communist parties participated in the Moscow Conference in June 1969 The main objective of the conference was to maintain unity against imperialism, and evolve a unity strategy

Even though the Soviet leadership failed to do any considerable damage to Mao's leadership, the very fact that so many

parties responded to Moscow's invitation was encouraging to Soviet leaders However, Soviet Russia could not succeed in p suading the conference to adopt an anti-China resolution

China (which had also been invited), Albania and Yugoslavi did not attend the conference Important communist parties in Asia (North Korea, North Viet Nam and Japan) also did not attend China conducted intense propaganda to provoke participants to ask awkward questions to the Soviet leaders Chinese students in Moscow staged an anti-Soviet demonstration

Sino-Soviet Border Dispute China was not provided with nuclear weapons by the Soviet Union and so the former bore a grudge against the latter China herself succeeded in manufacturing them She felt strong enough to pick a "border dispute" with Russia and in 1969 actual exchange of fire took place In October, 1969, the representative of both the States held a conference at Peking to settle their border dispute Premier Kosygin to the surprise of the West visited Peking in 1969 to settle differences However, China continued her unreasonable attitude

J Red Influence in the World

Soviet Russia's Gains In less than 80 years after the death of Marx, about one-third of the world population became red

In 1940 (the second year of World War II) Russia annexed Latvia, Lithuania, Estonia, a part of Rumania and part of Finland Stalin took full advantage of Soviet Russia's position as one of the leading victors of World War II The democracies, panic-stricken and in awkward war contexts (during 1939–45) made lavish concessions to Soviet Russia which enabled her to develop red imperialism rapidly and spread it in Europe and Asia

Russia gave military help to set up communist governments in Rumania, Bulgaria Hungary, Poland and East Germany

In Greece, the communists fomented a civil war in December 1944, but they were defeated

The expansion of communism since the outbreak of World War II can be understood by taking note of the communist aggression or infiltration with the help of Soviet Russia and China

In 1945 Soviet Russia annexed Eastern Poland Eastern Czechoslovakia a portion of Eastern Prussia and a slice of Japanese territory (of about 18 000 sq miles) The communists committed aggression on Czechoslovakia and captured Prague in 1948

Communist infiltration took place in Korea Indo-China, Burma, Malaya and the Philippines In 1950, communists of North Korea crossed the 38th parallel and committed aggression on South Korea Thus the Korean War broke out but for the efforts of the UNO it would have developed into World War III

During the four years 1946–49, Eastern Germany, Czechoslovakia, Bulgaria, Hungary, Poland, Rumania and Outer Mongolia became Soviet satellites

Fiftieth Anniversary of the Bolshevik Revolution On November 7, 1967, the celebration of the fiftieth anniversary of the Bolshevik Revolution began Soviet Russia looked back with satisfaction at the spread of communism She found in the list of red countries (1) People s Republic of Mongolia (established in 1924), (2) Yugoslavia (1945), (3) Bulgaria and Albania (1946), (4) Poland and Rumania (1947), (5) Czechoslovakia (1948) (6) Hungary (1949), (7) North Viet Nam (1954), and (8) Cuba (1961)

Communist China's Expansion Imitating the example of the USSR, Communist China brought North Korea under her control in 1948, and North Viet Nam and Tibet suffered the same fate in 1951 In 1962 the Chinese communist armies cut across the MacMahon Line and committed aggression on India

The Internationals International organisations were formed for spreading socialism or communism These were called the Internationals

(1) *The First International* This was formed in 1864 under the leadership of Karl Marx German labour parties and British trade unionists supported it The First International disintegrated particularly when the British support ceased

(2) *The Second (Socialist) International* This was established in 1889, with the support of several European socialist parties It was in favour of labour legislation It supported the cause of democracy by upholding universal adult suffrage The Second International lasted till 1914

(3) *The Third (Communist) International* Revolutionary socialists or communists led by Lenin formed the Third International at Moscow in 1919 It continued till it was dissolved by Stalin in 1947

(4) *The Cominform* An International Communist Information Bureau was formed on October 6, 1947 at Belgrade T

was preceded by an international communist conference in which the communist parties of the USSR, Czechoslovakia, Poland, Yugoslavia, Bulgaria Hungary, Rumania, Italy and France participated The new Communist International was called Cominform The Cominform expelled Tito of Yugoslavia in June 1941 going against Soviet Russia Several European socialist groups which had joined it had to leave, as they could not stand Russia extremism

K Socialism and Communism

Difference between Socialism and Communism Socialism can be distinguished from communism as follows

1 **Communism Applicable to Consumption Goods also** While socialism wants to bring about the common ownership of all means of production, communism stands also for their common enjoyment In other words, communism, unlike socialism is applicable to consumption goods also

2 **Communism Revolutionary** Socialism is evolutionary, it believes in constitutionalism and peaceful methods to reconstruct society Communism, as shown by Soviet Russia and China believes in class war, and is ready to employ all methods including the most violent ones to liquidate capitalism and imperialism

3 **No Hatred in Socialism** Socialism does not preach the hymn of hate and fanaticism as communism does, it shows tolerance to those who do not agree with it

4 **State to Wither in Communism** Socialism wants to use the state as an instrument to realise human welfare On the other hand, communism wants to seize the state in favour of the so-called Dictatorship of the Proletariat, and the state is to destroy the capitalist and bourgeoise The state is to last only in the transitional period, at the end of which the state will begin to wither away

5 **Communism against Religion** Socialism gives religious toleration communism is against religion and shows no sympathy

Drawbacks of Communism Communism suffers from serious drawbacks, which are as follows

1 **Absolute Power** Milovan Djilas exposed communism in its true colours in his *The New Class* (1957) Djilas s writing is of significance as he was a communist from his boyhood days, and in Tito s Government in Yugoslavia he became Vice-President

However, bitter experience made him change his views For expressing his views against communism, he was sentenced to three years' imprisonment in 1956 and to seven years' imprison ment in 1957 He stated that communist leaders exercised absolute power under the cloak of "public ownership" Communism seeks to break the shackles of capitalism, but it rivets on the feet of the so-called liberated people its own fetters

2 **Negation of Liberty** Communism means a negation of liberty The individual in Soviet Russia and communist China has no liberty Liberty is sacrificed at the altar of the state Communism does not respect human dignity The dignity of the human personality is completely destroyed

3 **Anti-Religious** Communism is anti-religious It cares only for materialism, and sets its face against all religious and spiritual values

4 **Ruthless and Violent** Communists know the language of force only Jawaharlal Nehru says "Communism has definitely allied itself to the approach of violence even if it does not indulge normally in physical violence Its language is of violence, its tho ught is violent and it does not seek to change by persuasion or peaceful domocratic pressures, but by coercion and, indeed, by destruction and extermination"[1] Communism gives no quarters to human sympathy, understanding and compassion It spreads hatred and fanaticism all over the world It is ruthless in its approach, and the implementation of communist programmes is invariably attended by great violence and bloodshed

5 **Gap between Words and Deeds** Communists preach principles, which they do not hesitate to violate if it suits their purpose and convenience By now, the world has clearly realised the difference between communist words and ideologies on one side and the hard communist realities on the other For instance, communists in India used to regard World War II as an imperi alist war with which they had nothing to do But no sooner Soviet Russia declared war on Nazi Germany in 1941 than they proclaimed that it was a people's war The gap between Premier Chou En-lai s profession regarding *Panchasheela* and his aggression and imperialist policy towards India make recent history During World War II, after Russia entered the war, Stalin admitted that from the beginning it was an anti-fascist war of liberation, but

1 In Grimes and Hortwitz *Modern Political Ideologies* (1959) p 197

when the war ended in 1945 and cold war between Soviet Russia and the West began, he spoke differently In 1952, Stalin changed his tune, and spoke in terms of inevitability of war between capitalist countries Communism has earned world-wide notoriety fo its opportunism To the communist, the end justifies the means.

6 False Theories Communists have misled the world by giving partially or fully incorrect theories like the Theory of Surplus value the theory of class war, and the theory of historical materialism

7 State not Withering The principle of the withering of the state has been falsified The communist state on the other hand grows from strength to strength The Soviet Union and Communist China are examples of totalitarian control

8 Communist Imperialism Communist states themselves have developed imperialism, against which communism professed to fight till the end As imperialists, neither the Soviet nor the Chinese communists are better than the other imperialists, whom they regard as capitalists and exploiters Wherever possible, communist states do not hesitate to commit aggresssion on other states The occupation of Tibet by the Chinese communist armies the ruthless suppression of the Hungarian Revolution in 1956 by Russia s communist soldiery and the Soviet invasion of Czechoslovakia in 1968 are good examples of communist realities

9 Communist Authoritarianism Communism has led to the authoritarian rule of one party only The USSR constitution looks democratic, but actually it is dictatorial Soviet Russia is a one party state, and only the communist party is tolerated in Russia All Russians are not communists but the communists, who form a fraction of the Russian people have manoeuvred to be in power in Russia The communist party pushes its members into all constitutional bodies, which obviously become the tools of the ruthless communist party bosses like Stalin Krushchev, Kosygin and Brezhnev

L The Effects of the Russian and the Chinese Revolutions

The following are the effects of the Bolshevik Revolution in Russia in 1917 and the Communist Revolution in China in 1949

(1) Capitalism all over the world got a rude set-back, from which it may not recover

(2) Two big states, Russia and China became red and each of them has its own communist satellites About one-third of the population in the world has been forced to accept communism

(3) Violence, bitterness and hatred have spread all over the world, owing to the communist strategy and tactics

(4) Totalitarianism and authoritarianism scored great triumphs in the USSR, China and other states

(5) Communist empires have grown rapidly, red imperialism is certainly not better than European imperialism of the nineteenth century

(6) The world has been divided into two camps Capitalist and Communist the presence of these diametrically opposed camps is felt in the United Nations Organisation

(7) In democratic states, socialist parties broke into several groups The radical ones accepted communism

(8) Human rights and spiritual values are in danger, as communists are in no mood to respect human values and the dignity of the human personality They do not care for religious and spiritual values

MAIN POINTS

1 **Definition and Meaning of Communism** A form of socialism Revolutionary and violent Marx not the first socialist Communism is revolutionary socialism Ideas of Marx Engels and Lassalle

2 **Basic Principles of Marx** 1 Dialectical materialism Thesis anti-thesis and synthesis 2 Materialistic interpretation of history 3 Theory of surplus value 4 Theory of class war 5 Law of concentration of capital 6 Dictatorship of the proletariat 7 Withering of the state 8 Religion the opium of the people 9 Inevitability of revolution

3 **Evaluation of Marxism** Merits—1 A tremendous force in favour of labour 2 Hope to workers 3 Clear-cut ideas 4 Lesson to exploiters

Demerits—1 Non economic factors ignored 2 Class war concept misleading 3 Surplus value theory wrong 4 Wrong to say that state is obstructive 5 State not withering 6 Great injustice to religion 7 Gospel of hatred

4 **Russian Revolution** Terrific poverty and ruthless exploitation Entry of communist ideas Efforts of Lenin Stalin and Trotsky Lenin s contributions 1 Practical demonstration of Marxian ideas 2 Dictatorship of communist party instead of dictatorship of proletariat 3 War communism and New Economic Policy 4 Possibility of socialism in one country 5 High industrialisation not necessary for revolution

5 **Stalinism** Rift between Lenin and Stalin Trotsky favoured international communism and Stalin thought of national communism Trotsky exiled Stalin s dictatorial power at home and imperialism abroad World front of communism and common front of revolutionary movement in all countries Dictatorship of communist party Russia s communist satellites Stalin bullied into submission Poland Hungary and Czechoslovakia

6 **After Stalin** Denigration of Stalin Criticism of Stalin s personality cult Modification of communist doctrines Lifting of the iron curtain. Ruthlessness

continued under Krushchev Great decisions at the 20th Communist Congress Idea of peaceful coexistence accepted Different roads to socialism Krushchev overthrown by Kosygin Bre.hnev doctrine Invasion of C.echoslovakia in 1968

7 Communism in China Failure of the Chinese Republic. Civil war Overthrow of Chiang Kai-shek Communist government since 1949 Emergence of Maoism Dictatorship and totalitarianism

8 Red Influence One-third of the world red Communism in Eastern European countries and Afro-Asian countries Soviet gains during World War II

9 Difference between Socialism and Communism 1 Socialism evolutionary Communism revolutionary 2 Socialism retains state In communism state withers 3 Tolerance in socialism Class hatred in communism 4 Communism anti-religious

10 Drawbacks of Communism 1 Absolute power 2 No liberty 3 Anti-religious 4 Violence 5 Difference between words and deeds 6 False theories 7 State not withering

11 Developments in Mao s China Failure of Mao s plans and policies Purges Red guards and the New Proletarian Cultural Revolution Red guards on rampage Serious clashes between Mao-Lin and Liu Shao-chi groups Threat of civil war

12 Sino Russian Relations Challenge to Soviet leadership Serious Sino-Soviet differences Mao against revisionism Attack on Russian leaders Developing enmity

CHAPTER 32

ANARCHISM

A Definition and Meaning of Anarchism

Let us briefly discuss the definition and meaning of Anarchism

Abolition of State, and Freedom from Political, Social or Religious Control Anarchist philosophy, which rose in the nineteeth century went to the extreme end of saying that the state should be abolished altogether Hence, it is diametrically opposed to the idealist philosophy While idealists on one hand lay emphasis on the importance of the state, with the help of which alone the individual can develop his personality, Anarchists on the other hand regard the state as an evil coming in the way of the individual's development Hence the Anarchists say that the state should be scrapped unceremoniously

"The essential features of Anarchism are the abolition of all constituted authority and the complete emancipation of the individual from every form of control—political, social or religious Oscar Jaszi defines it as 'an attempt to establish justice (that is, equality and reciprocity), in all human relations by the complete elimination of the state (or by the greatest possible minimization of its activity), and its replacement by an entirely free and spontaneous cooperation among individuals, groups, regions and nations'"[1]

Prof E M Burns thinks that Anarchism is against *government based on force* "Correctly defined, Anarchism means opposition to government based upon force No Anarchist with pretensions to philosophical understanding has ever proposed to dispense entirely with government He condemns the state conceived as an agency of coercion with armies, jails, and police, but he regards government as at least potentially a beneficent institution"[2]

1 J S Roucek and Others *Introduction to Political Science* (1954) p 98
2 *Ideas in Conflict* (1960) p 37

F W Coker says in his *Recent Political Thought* (1937) "Anarchism is the doctrine that political authority, in any of its forms, is unnecessary and undesirable In recent Anarchism, theoretical opposition to the state has usually been associated with opposition to the institution of private property and also with hospitality to organise religious authority "[1]

B Views of Great Anarchists

Anarchist Thinkers The principles of Anarchism were expounded by thinkers like William Godwin, Pierre Proudhon Henry Thoreau, Leo Tolstoy, Mikhail Bakunin, Prince Kropotkin, and Enrico Malatesta (1863–1932) an Italian

Coercion Wrong The gist of the thought of these philosophers is that human beings can live well, without a government A government is not at all necessary, in fact it is an evil which should be dispensed with "The Anarchist school represents the extreme school of individual rights To its adherents, liberty, individual liberty is the important thing All coercion or compulsion such as implicit in government is inherently and fundamentally wrong and not to be justified "[2]

Natural Law and Voluntary Agreements The Anarchist appeals from the state law to what he deems to be a higher law the natural law The needs of the individual and society can be met by voluntary agreements among territorial and professional groups Anarchists speak in terms of free agreements and are against the individual's submission to the state, whose authority is based on force and not on human volition

All Anarchist leaders do not fully agree with one another, but all of them are anti-authoritarian

According to Prof E M Burns modern Anarchists fall into two schools

(1) Those like William Godwin who are economic individualists, and

(2) Those like Bakunin who are collectivists and revolutionists

Godwin and Proudhon mixed Anarchism with Individualism, whereas Bakunin Kropotkin and others combined Anarchism with Collectivism

The views of the most important Anarchists have to be noted

1 Op cit p 192
2 W F Willoughby *The Government of Modern States* (1936) p 47

William Godwin (1756–1836)

It seems the first modern Anarchist to think strongly against the authority of the state was William Godwin He expressed his ideas in his book *An Enquiry Concerning Political Justice and its Influence on General Welfare and Happiness*

Upholding Injustice According to him, the state prevents the individual from acting in a just and reasonable way by up holding injustice and inequity with the help of its authority In the atmo phere created by the state, there is no scope for the individual's free self-expression

Influence of Environment When man is born, he is neither virtuous nor vicious It is the environment that makes him good or bad Evils rose in society owing to government and property, which should be abolished

Evils of Government and Property Government is an evil, as it is based on violence and property is an evil, as it creates vanity and depravity among the propertied people, and servility and immorality among the poor

It is significant to note that Godwin did not employ the term 'Anarchism' in his books, and technically speaking it may not be quite correct to regard his philosophy as Anarchist

Pierre Joseph Proudhon (1809–65)

Proudhon who came to be regarded as the father of Anar chism championed the cause of liberty and freedom and condemned the government of man by man Perhaps he was the first to regard himself as an Anarchist

Government Synonymous with Oppression According to him, government is synonymous with oppression, and it upholds inequities in society In Proudhon's opinion, 'Governments are the scourge of God" The state is against reason justice and understanding Instead of having the state individuals and volun tary groups should engage themselves in productive enterprise State authority should make way to the rise of mutualism

Bank of People Proudhon advocated the establishment of a Bank of the people which would enable people to eliminate all private capital ultimately The various voluntary associations which would make positive Anarchy meaningful were to function with the free credit supplied by the Bank of the People which would be based on the concept of co-operative banking

Equal Property Rights Proudhon condemned private property *as theft and advocated equal property rights for* all It should not be considered however that he was completely opposed to the institution of private property What he attacked was the system of property distribution existing under capitalism, which promoted social injustice Individuals can have property and can enjoy the right of inheritance He spoke of giving everyone three acres and a cow

In short, Proudhon was against authority, privileges and the *form of private property which leads to exploitation,* he wanted a society seeking the highest perfection "in the union of order and Anarchy" Though Proudhon regarded himself as a socialist, he disliked communism and criticised it as utopian

Henry Thoreau (1817-62)

Another Anarchist was Henry David Thoreau He also spoke strongly against the existence of the state

He did not approve of the authority of the state and was against the payment of taxes He himself did not pay taxes and others paid for him In 1846, he had to go to jail, as he refused to pay taxes to the state of Massachusetts, which maintained slaves He regarded maintenance of slaves as sinful In resisting the state and in not paying taxes, he anticipated Mahatma Gandhi According to him, the rule of the majority which is found in modern times cannot be based on justice Government exercises authority wrongly and unjustly and good men have to *suffer Men need not cultivate respect for law*

As regards his own country America he said that men had accomplished much, but would have done better, had the state not come in their way

He was in favour of offering active and passive resistance to the American government

Count Tolstoy (1828-1910)

Tolstoy, who belonged to an aristocratic Russian family also condemned the state strongly and promoted the cause of Anarchism In his criticism of the state, he did not mince words

Evil Superstition He disliked a culture based on violence and exploitation The state, according to him, rose and existed as an evil superstition "So-called science supports this superstition with all its power and with the utmost zeal This superstition

resembles exactly the religious one and consists in affirming that besides the duties of man to man, there are still more important duties towards an imaginary being which theologians call God and political science the state"

Criticism of Private Property He believes that private property and state are against the teachings of Jesus, as the former violates the principle of charity and brotherhood, and the latter is based on force

Christian Anarchism "Tolstoy's doctrine has been called Christian Anarchism He rejected many of the traditional dogmas of Christianity—particularly, the trinity, the divinity of Christ and personal immortality—but he was thoroughly Christian in his ethics He scorned the Russian Church because he believed that it had, by supporting the tyranny of the Russian state and condoning the idle and selfish lives of the Russian upper classes, forsaken entirely the teachings of Christ"[1]

State an Evil He made it clear that the presence of the authority of the state prevented people from doing work which was good and desirable The state compelled men to do what they did not like and prevented them from doing what they liked Moreover people were forced to pay taxes to upport an authority, which stood for evil Therefore, liberation of the people from the control of the state would do good to all

Mikhail Bakunin (1814–76)

Another Anarchist, who upheld anti-authoritarian philosophy was Count Mikhail Bakunin of Russia He came in contact with Proudhon, Marx and Engels who influenced him much He visited countries like Germany, England, France, the USA and Japan

Revolutionary Anarchism in Russia As a communist and anarchist, *Bakunin criticised the Russian Government strongly* "Born a member of the Russian aristocracy, Bakunin dedicated his life to the cause of revolutionary Anarchism, spent twelve years in prison and was twice sentenced to death For a time he was associated with Marx but Marx repudiated him when he realised the significance of Bakunin's belief that the state could be abolished overnight"[2] He was condemned to death thrice by the Czarist regime, but was not executed He was exiled to Siberia, but here again he was lucky to effect an escape

1 F W Coker *Recent Political Thought* (1957) p 223
2 E M Burns *Ideas in Conflict* (1960) p 38

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in prison He escaped from prison in 1876 and visited foreign countries like England, France and Switzerland He lived in London for a long time and wrote several books like *Modern Science and Anarchism*

Against State Religion and Private Property Like Bakunin, Kropotkin was against state religion and private property According to him, there was a time, when people worked through natural institutions, which gave liberty to the people But when the state emerged, it imposed its authority on the people, who lost their liberty People obeyed laws not because laws were good, but because authority forced them to do so

State Hindrance to Liberty The state is not only useless, but it is also a positive hindrance to liberty The state, an evil should be eliminated, and other associations should be entrusted with the work Associations will certainly function better than the state, as they have a purpose, whereas the state serves no useful purpose

Life Made Miserable Anarchism, implies the removal of the state and other forms of authority, which have made the lives of the people miserable In the state people work in bad and unhealthy surroundings, and they have no interest in doing the type of work, which is forced on them There is no zeal and pleasure to work There is too much of injustice in society, and hunger drives people to work like slaves The people under the tyranny of the state need emancipation This is possible by the elimination of private property for which many work but few enjoy at the cost of many

Production to Cater to Real Needs Progress is not at all possible under the conditions created and upheld by the state There can be progress only through collective efforts of people in workshops and factories, which provide workers with the types of job, they like People will find in these factories opportunities to engage themselves in useful tasks, which would give them pleasure Work will then be no more slavery, but something that is purposeful and gratifying to the individual Under state authority and within the framework of private property people do not produce, what the community needs, but what is dictated by directors and shareholders of companies But in the Anarchist society, production will cater to the real needs of the people

Communes "With the overthrow of the state, Kropotkin would set up an association of free communes composed of

In 1869 he established the Social Democratic Alliance to disseminate his ideas which were clearly anti-political, anti state and anti-authoritarian

Demoralisation of Man According to him, the state is an evil, as it degrades and demoralises people The state is functioning with the help of force and its activities are not based on persuasion and enlightenment Whatever may be the garb of government it is an evil Even a democratic form of government is an evil as it cannot change the nature of the state The state which upholds evils and degrades man should be eliminated Power is a corrupting influence on all the rulers as well as the ruled

Criticism of Church Bakunin also poured his wrath on the church He said Of all despotisms that of the doctrinaires or inspired religionists is the worst They are so jealous of the glory of their God and of the triumph of their idea that they have no heart left for liberty or the dignity or even the suffering of living men of real men Bakunin put God on a level with the Czar of Russia as both stood for tyranny according to him

Against Private Property Bakunin also attacked the institution of private property Religion and private property are the instruments with which the rich exploit the poor Though Bakunin was not against an evolutionary method to realise his goal, he favoured the revolutionary method, as people shall have to wait long to be liberated from the state religion and private property, the institutions which made men suffer

Formation of Anarchist Society In preaching Anarchism, Bakunin spoke not of Russia only but of the whole world He spoke in terms of forming an Anarchist society in which there would be no distinctions of nationality, race, colour and belief This would lead to the abolition of state frontiers and the formation of a world community

Prince Peter Kropotkin (1842-1921)

Kropotkin a Russian, the most famous among Bakunin's disciples was another great Anarchist In 1872 he went to Switzerland and became a member of the International Workingmen s Association at Geneva which he had to leave as his views were very radical For participating in the Nihilist Government, based on terrorism in Russia he was arrested in 1874 and put

in prison He escaped from prison in 1876 and visited foreign countries like England, France and Switzerland He lived in London for a long time and wrote several books like *Modern Science and Anarchism*

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Communes "With the overthrow of the state Kropotkin would set up an association of free communes composed of

individuals banded together for a definite economic purpos The original communes, in turn, would federate with others i neighbouring localities until eventually a large area would be covered by voluntary organizations, seeking mutual advantages

Manual work would no longer be performed by a degraded class, nor would intellectual labours be the monopoly of a privileged few [1]

Other Anarchists were Josiah Warren (1799-1874), Stephen Pearl Andrews (1812-86), Benjamin R Tucker and Lysander Spooner (1808-87)

C Salient Features of Anarchism

The following are the salient features of Anarchism

1 State an Evil to be Abolished Anarchism regards state as an unmixed evil, against which people should fight a get it abolished State authority is unnecessary and undersirable, it is a hindrance in the way of society and it upholds a system, which makes society miserable Inequality and injustice are blessed by state authority The state does not protect the interests of people In the system of inequality and injustice upheld by the state, there is full scope for all kinds of evils People, who were originally good become bad They lose their innocence, a become criminals The state makes people criminals, and th exercises its authority to punish them in different ways Law, th instrument of the state is an evil, and people obey it, as they ar compelled to do so

2 Against Private Property and Capitalism Anarchism condemns the institution of private property, which flourishes under capitalism Capitalism has produced evils like the degradation of those who work, the enjoyment of the few, who do not work, poverty and suffering to the millions, the extravagance and vulgar ostentation of the rich, the colossal waste in society, immorality and unemployment Therefore capitalism should be destroyed root and branch

3 Church to be Overthrown The church, the friend of the state and of the capitalists has been misleading the poor and the needy, who are called upon to reconcile their lot with a system which brings about their sorrow and degradation Religion thus is a force of evil, and is an obstacle to social progress Hence the authority of the church also should be overthrown

1 Ibid p 42

4 Formation of Voluntary Associations State authority is based on compulsion, fear, egoism and exclusion In the conditions created by the state, innocent men become bad The remedy lies in the establishment of Anarchist society, which is based on fraternity, freedom, union and love The state will be abolished to make room for voluntary associations functioning on a co-operative basis Anarchist society is stateless and classless, and it will be free from the evils of competition and conflict The soul of Anarchism is decentralisation

D Methods of Anarchists

Evolutionary and Revolutionary Methods As there are two forms of socialism, evolutionary and revolutionary there are also two forms of Anarchism Anarchists like Tolstoy desire to employ peaceful methods They believe in good ends and good means too, and they intend to establish an Anarchist society through love and persuasion But, there are Anarchists who are wedded to revolutionary ideas and violence According to them, violence and destruction should be employed to establish Anarchist society Non-violence and persuasion are useless in dealing with those who uphold the state, the church, capitalism and private property

Common Features of Anarchism, Nihilism, Communism and Syndicalism The methods of violence and destruction advocated by Anarchists draw them close to nihilists and communists Nihilism and communism, like Anarchism rose in the nineteenth century Nihilists, who were against all existing institutions, developed the cult of violence, and were behind many activities of violence, outrage and murder They believed that the end justified any means, fair or foul Nihilists in Czarist Russia were the authors of several atrocious deeds like poisoning, shooting and bomb-throwing

Like communists, Anarchists spread bitterness, hatred, fanaticism and class prejudice Communists unlike Anarchists desire to make use of the state authority to introduce revolutionary socialism, but in the long run, like Anarchists, they want the state to wither away

Similarly, comparison can be drawn between Syndicalism and Anarchism Syndicalists wish to employ violence to get rid of the state to establish a federation of workers' associations

Syndicalism, Communism and Anarchism are against peacef and evolutionary methods, and are the deadliest enemies

capitalism It should be noted however that there is some difference between Syndicalism and Anarchism While Anarchists speak for all and different kinds of interests, Syndicalists speak for workers' associations only

E Evaluation

Merits Anarchism has certain merits

(1) There is much truth in what evolutionary Anarchists like Tolstoy say No one can gainsay that in capitalist society there is misery and unemployment, and people are forced to do the type of work, in which they have no interest There is no joy in work, and people work only because hunger goads them to exert themselves.

(2) Whatever may be the form of government, people have no true liberty *It is a fact that in several countries, in which the* form of government is democracy, people suffer from degradation, misery and unemployment, and real liberty is enjoyed only by the rich.

(3) Power in the state is misused by a few people in their own selfish interests

(4) The institution of private property is exploited by a few rich

(5) Religion also is used for selfish purposes

Defects The following are the defects of Anarchism

1 **Abolition of State neither Desirable nor Feasible** The Anarchists want the state to be abolished But this is neither desirable nor feasible The state came into being for life, and it continues for the sake of good life, Aristotle rightly said centuries ago Anarchists desire to have voluntary associations working on a co-operative basis But these associations too have to wield authority without which they cannot function The hope that authority can be got rid of altogether can never be realised If government in the existing form is abolished authority will have to manifest itself in some other form Authority which Anarchists push out of the state, will stage a come-back through the so-called voluntary associations

2 **State Upholds Liberty and Promotes Welfare** Democratic states like Britain, USA, France and India uphold the liberty of the individual, and try to promote the welfare of the people Hence, it is not true to say that in [illegible] the individual has no liberty It is also no[illegible] that t[illegible] otes mi ery and unhappiness In fact, [illegible] ti [illegible] wedded to the concept of the welfar[illegible] a [illegible] the [illegible] have gained much th[illegible] s [illegible] st

3 Realisation of Anarchist Paradise Impossible It seems that in the paradise the Anarchists seek to create, there will be no immorality, exploitation, misery and compulsion In a stateless, classless and churchless society, all will be happy Such a state is too good to be true Unless human beings become saints or gods, it is not possible to free society absolutely from vices and weaknesses While it is quite true that human misery can be reduced, a classless, stateless and churchless paradise can never be realised

4 Anarchism Based on Violence, Fanaticism and Hatred Like Syndicalists, Nihilists, and Communists, Anarchists, spread fanaticism and hatred, and depend upon brute force for the realisation of their aims By resorting to destruction and murder, Anarchists desire to have Anarchist society based on love and co-operation Anarchists suggest a remedy, which is worse than the disease

MAIN POINTS

1 Meaning of Anarchism Abolition of state and freedom from political, social or religious control Formation of voluntary associations Contributions of Proudhon Thoreau Tolstoy Bakunin Kropotkin and others in the 19th century Anarchists appeal from state law to natural law Territorial and professional groups to form voluntary agreements Two types of Anarchists

(1) Economic individualists (2) Collectivists and revolutionists

2 Basic Anarchist Views 1 State an evil to be abolished 2 Anarchists against private property and capitalism 3 State to be replaced by voluntary organisations 4 Church to be overthrown

3 Methods Some favour evolutionary methods while others advocate violent methods Common features of Anarchism Nihilism Communism and Syndicalism

4 Evaluation

Merits—(1) Misery in capitalist society (2) No joy in work (3) No liberty (4) Misuse of power private property and religion

Defects—(1) Abolition of state neither desirable nor feasible (2) States do uphold liberty and promote welfare (3) Realisation of Anarchist paradise impossible (4) Anarchism based on violence fanaticism and hatred

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2 State Upholds Liberty and Promotes Welfare Democratic states like Britain, USA, France and India uphold the liberty of the individual and try to promote the welfare of the people Hence, it is not true to say that in *all* states the individual has no liberty It is also not true that the state promotes misery and unhappiness In fact in modern times states are wedded to the concept of the welfare of the people, and in many states the people have gained much through the services rendered by the state

3 Realisation of Anarchist Paradise Impossible It seems that in the paradise the Anarchists seek to create, there will be no immorality, exploitation, misery and compulsion In a stateless, classless and churchless society, all will be happy Such a state is too good to be true Unless human beings become saints or gods, it is not possible to free society absolutely from vices and weak nesses While it is quite true that human misery can be reduced, a classless, stateless and churchless paradise can never be realised

4 Anarchism Based on Violence, Fanaticism and Hatred Like Syndicalists, Nihilists, and Communists, Anarchists, spread fanaticism and hatred, and depend upon brute force for the realisa tion of their aims By resorting to destruction and murder, Anarchists desire to have Anarchist society based on love and co-operation Anarchists suggest a remedy, which is worse than the disease

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4 Evaluation

Merits—(1) Misery in capitalist society (2) No joy in work (3) No liberty (4) Misuse of power private property and religion

Defects—(1) Abolition of state neither desirable nor feasible (2) States do uphold liberty and promote welfare (3) Realisation of Anarchist paradise impossible (4) Anarchism based on violence fanaticism and hatred

CHAPTER 33

FASCISM

One of the evil forces that emerged in the inter-war period (1919-39) in the twentieth century was Fascism

A Definition and Meaning of Fascism

Combination of Opportunism, Absolutism and Violence The term *Fascism* is derived from the Latin word *Fasces*, which means bundle (In ancient Rome, a bundle of rods with an axe was the sign of authority, which included the power of life and death) Fascism emerged in the twentieth century as a reaction against liberalism and democracy ' Mussolini has declared that Fascism was an ideology compounded of the teachings of Machiavelli's doctrine of opportunism, Hegel s political absolutism, Sorel's doctrine of violence, and William James' pragmatism Fascism did not have a dogmatic ideology and adapted its doctrine as the exigencies of the moment required "[1]

Great Ambitions of Disgruntled Italy Italy, the disgruntled victor of World War I was not in an enviable position in the twenties of this century, and Fascists exploited the problems of their country to further their own selfish ends Maxey observes in his *Political Philosophies* (1959) "Italy bitter over her treatment at the Versailles treasure-hunt and rent with internal discord, had for gotten the ideals of Mazzini and Garibaldi and surrendered to a Fascist dictatorship that was rapidly anti-democratic "[2] Mussolini discovered after the end of World War I that the leading democracies and the League of Nations were toothless, and would do nothing to prevent him from building his dictatorship on Fascism

Ideas of Hegel, Gentile and Prezzolini ' The original fore runners of Italian Fascist political theory were a group of intellectuals who had adopted with weird modifications the philosophy of Hegel

1 J S Roucek and Others *Introduction to Political Science* (1954) p 90
2 Op cit 676

Taking as their fundamental position the Hegelian idea that the state is the supreme manifestation of God on earth, they demanded that Italians should submerge their individual and class interests in a united endeavour to revive the greatness of their nation "[1]

The prominent Fascist philosophers were Giovanni Gentile (1875–1944) a disciple of Hegel and Giuseppe Prezzolini, a great admirer of Benito Mussolini

Intensely Nationalist, Racialist, Militarist and Imperialist Single Party Totalitarian Dictatorship "Stripped to its essentials, Fascism is the totalitarian organization of government and society by a single-party dictatorship, intensely nationalist, racialist, militarist, and imperialist In Europe Italy (1922) was the first to go Fascist, followed by Germany (1933) In Asia, Japan went Fascist in the nineteen thirties, gradually evolving totalitarian institutions out of its own native heritage "[2] "To trace all of the sources of the political philosophy now known as Fascism is not easy It is a compound of many ingredients which have been blended together with great ingenuity We may perceive, among others, borrowings from Machiavelli, Hobbes, Fichte, Hegel, Treitschke, Nietzsche, Marx, Sorel, Mosca, Schopanhauer, Bergson, James and Pareto "[3]

B Origin and Growth of Fascism

Worldwide Authoritarian Movement under Italy's Leadership Fascism strongly manifested itself in Italy after World War I under the leadership of Benito Mussolini in Italy It was essentially an authoritarian movement, which took advantage of the chaotic conditions that rose in Italy Benito Mussolini (whose father was a blacksmith and mother a school teacher), the Fascist leader was able to seize power in Italy and establish his dictatorship After establishing itself in Italy in 1922, Fascism spread in other countries Mussolini boasted that Fascism would be a world movement and Italy would be the leader of the world Though Fascism did not spread all over the world, it made rapid progress in European countries in the third and fourth decades of the twentieth century Governments of Austria, Hungary, Bulgaria, Greece, Rumania and Poland accepted Fascist principles by 1936

Combination of Italy, Germany and Japan The spread of Fascism in all these countries had much to do with the outbreak

1 E. M Burns *Ideas in Conflict* (1960) p 217
2 W Ebenstein *Today's Isms* (1958) p 85
3 C. C. Maxey *Political Philosophies* (1959) p 938

of World War II in 1939 There were many things common between Nazi Germany under Hitler's dictatorship and Fascist Italy under Mussolini's dictatorship Hence it was possible for them to enter into a defensive and offensive alliance in May 1939, barely three months before the Second World War began In the Far East, Japan was also eager to participate in a Global War, and in September 1940 Japan made a Fascist Alliance with Germany and Italy with the grand objective of setting up a *new order* in Europe, Asia and Africa

During the Second World War, Italy, Germany and Japan were called *Axis Powers* Berlin-Rome-Tokyo Alliance or Axis had been formed in 1937

Fascist Italy Overthrown In the early stages of the war, the Axis Powers did well, and Fascism became a real menace to the world In June 1940, when France surrendered, democracy was abolished, and a Fascist type of government was established in that country In the later stages of the war, Fascism and Nazism got a set-back, and ultimately with the fall of Italy and the death of Mussolini, Fascist hopes were shattered to pieces Fascism played a vital role in bringing much misery to the modern world

C Fascism in Action

Fascists Bent on Discrediting Democracy and Seizing Power Mussolini, the high priest of Fascism did not give an elaborate philosophy of Fascism Taking inspiration from Eurico Corradini and Gabriel D Annunzio, who advocated aggressive nationalism and imperialism, Mussolini, who was a great admirer of Machiavelli and Sorel chalked out his programme of expansion and aggrandizement

Mussolini established in 1919 a Fascist Group called *Fascio di Combattimento* consisting of extreme nationalists, who were against monarchy and capitalism The group changed its attitude as evident from the support it gave to capitalists, landholders and propertied classes

Conditions in Italy were most congenial for the formation of a Fascist Party with a national programme, and in November 1921 the National Fascist Party was formed The main objective of Fascists was to capture power in Italy After the end of World War I, countries like Italy had to face serious problems, and the Fascists in Italy capitalised on the difficulties of Italy as a nation

Fascists led by Balbo, Grandi and others scoffed at democracy and parliamentary institutions They decided to destroy the discredited parliamentary institutions and establish their own government It was indeed strange that the government was soft, and the army and the police hardly resisted the activities of Fascists

Fascist March on Rome Fascist under Mussolini marched on Rome on October 28, 1922 and on the next day the King of Italy invited Mussolini to form a Government Had the Government in Italy nipped the Fascist movement in the bud, the Fascists under Mussolini would not have scored a spectacular triumph Capture of power must have been easier than what Mussolini had imagined

Totalitarian Control by Mussolini To begin with, Mussolini pretended that he was going to form a coalition ministry, and was prepared to co-operate with others But when his position was secure, he brushed aside parliamentarians and non-Fascists, and made his dictatorship a reality Mussolini and his Fascist supporters remorselessly suppressed all non-Fascist movements banned other political parties butchered people who hindered their path, and converted Italy into a totalitarian state Mussolini's policy was ruthless suppression at home, and imperialism and war abroad Mussolini remained in power during 1922–1943

Italy under Mussolini moved on the war path and in 1935 committed aggression on Ethiopia, and conquered it, in spite of the existence of the League of Nations Having made common cause with Germany and Japan, Fascist Italy entered the Second World War in 1940 but within five years, she had to surrender to the Anglo American armies in 1945

Mussolini Man of Action Even the worst critics of Fascism have to admit that Mussolini was essentially a man of action He was an evil genius, who laid all emphasis on action and very little emphasis on words He made it very clear that the aim of Fascists, was to seize and retain power in Italy, and build a Fascist empire Italy, according to him, needed men of action, and not tall talk and empty programmes All Fascists under Mussolini were seasoned opportunists, who knew no ethics and moral principles

D Salient Features of Fascism

The following are the salient features of Fascism

1 **Extreme Nationalism** Fascism is based on extreme nation- alism and militarism Fascists regard the nation as a [illegible]

personality having a will and end of its own It is the essential duty of the individual to serve the nation, the supreme arbiter of all Fascism lays great emphasis on the individual s complete and undivided loyalty to his nation through his feelings and actions In the interest of the nation, it is necessary to control the thoughts and sentiments of the people by regulating the press, films and the radio The nation comes first, and the individual should bend all his energies in its service

2 **Imperialism and War** Fascism is also based on aggressive imperialism and war, and it is dead against international peace and harmony Lovers of peace and advocates of international good will and co-operation are criticised as cowards Imperialism is something that is natural, eternal and immutable and it is preposterous to talk and work for peace War, as a corollary of imperialism is upheld as something gloriou Mussolini said "War is to man what maternity is to woman " Under Mussolini's dictatorship the Italians were made to understand that their country was too small for them and they should wage war for expansion According to Mussolini's logic, Italy was in a permanent state of war

3 **The Corporate State** Mussolini converted Italy into a Corporate State The concept of the Corporate State was based on two ideas viz (1) the members of the ruling party (Fascist leaders) only are capable of understanding the problems of the people and the country, and (2) the ordinary citizens are incapable of comprehending tha great problems facing the nation and hence they should remain inarticulate They can understand their problems not as the citizens belonging to the Italian nation but as men following their own profession, that is, as farmers, workers entrepreneurs lawyers and doctors A farmer, for instance, can understand the problems of farming and not the problems of the nation The Corporate State controls the economy of the whole country according to Fascist ideas There are state-controlled associations of capital and labour and each enjoys monopoly in its own field It goes without saying that no association can follow a line of action, which is not approved by the state

Institutions of Employers and Employees Fascist ideas were implemented through the Corporate State Fascist literature gave great importance to the corporative system of state organiza tion The Fascist plan of the Corporate State was implemented through the Corporation Act of 1934 The chief institutions of the Corporate State were the following

(1) *Syndicates* One syndicate of employers and one of workers for every trade or occupation could be set up in a district The syndicate of employers must have members employing at least 10% of the workers in the trade in the district, and the syndicate of employees must consist of at least 10/ of the workers in the trade in the district

(2) *Federations* Employers' syndicates and employees' syndicates were to form separate federations

(3) *Confederations* Federations were to form confederations There were to be nine confederations four of employers and four of employees in industry, agriculture, commerce, and credit and insurance, and one confederation of professional men and artists

(4) *Corporations* Till the Confederation level, employers and employees were to have separate institutions, but at a higher level that is of corportion both the types were to come together For each trade, there was to be a corporation consisting of representa tives of employers and employees Each corporation was to have a president appointed by the Head of the Government There were in Italy 22 corporations

(5) *The National Council of Corporations* The most important members of the corporations, that is about 500 members formed the National Council of Corporations "The corporate state was held up as a paragon which would give private initiative ample freedom and at the same time preserve and promote the well-being of all Another feature of the corporative system, which certainly commended it highly to the Fascists, was that it enabled the state to manage the whole economy as a national autarchy"[1]

4 **One Party State Destroying All Non-Fascists** Italy under Mussolini became a one-party state All parties in the country were ruthlessly suppressed by Mussolini in the interests of the Fascist Party In other words, absolutely no room was left for the very existence of democracy and liberalism According to Fascists, democracy is the worst,type of government, and it is "a decaying corpse", "stupid, corrupt, slow-moving, visionary, impracticable and inefficient" As essentially men of action and war, Fascists poured ridicule on discussion and consultation and dubbed parlia ments as useless talking shops 'In one thing he showed consis tency throughout his career—his contempt for democracy Exulting over the 'decaying corpse of the Goddess of Liberty', he proceeded to tear down piece by piece, the parliamentary structure He

1 C C Maxey *Political Philosophies* (1959) p 647

nullified and abolished all political parties except 'the' party He changed his office of premier into that of 'head of the government' He had his personal army, the blackshirt Militia, bound exclusively to his service"[1]

As Fascism alone, according to them could lead Italy to her goal, it was right and necessary to extirpate all non-Fascists Conditions in Fascist Italy were topsy-turvy, while in a democracy rulers are responsible to people, in Fascist Italy the people were to be responsible to the rulers Parliamentarianism, liberty, equality, the dignity of the human personality and other features of a democratic form of government were summarily rejected by Fascists People in Italy had the only 'right" of obeying the orders of the *Duce* (Mussolini) fully and without complaining the least They were all instruments to be used at the will and pleasure of the Fascist dictator The Fascist Party alone was regarded as the conscience-keeper of the state

5 **Injection of Fear and Totalitarianism** A state in which there can be no criticism of government is bound to be authoritarian and totalitarian With its back to the wall Fascism had no alternative but to become thorough going or totalitarian, and in doing so the technique of control by fear became of vital importance Full of fear themselves they (Fascists) knew how to turn it into violence thus causing fear in others Gradually they developed a technique of injecting fear into their fellow-countrymen, which started by making anti-Fascists swallow a jar of castor oil and reached its climax by forcing them to recant or beg for mercy '[2] To protect the Fascist state and to suppress anti-Fascists, Mussolini, the Duce organised his secret police known as VORA (Voluntary Organisation for the Repression of Anti-Fascism) Though there were differences between Fascism on one side and Nazism and Stalinism on the other, the feature of authoritarianism and totalitarianism was common to all of them All power was vested in the Fascist party and the Fascist party gave all powers to the Duce The dictator was responsible to none, but all had to be responsible to him Fascism became all-embracing in Italy, and all aspects of life of the individual came under the control of the Fascist state There is nothing valuable outside the scope of the Fascist state Mussolini loudly proclaimed "For the Fascists, all is in the state and nothing human or spiritual exists

1 Mac Iver *The Web of Government* (1959) p 246
2 E K Aramstedt *Dictatorship and the Political Police* (1945) p 51

much less has any value outside the state" The Fascist motto was "Everything within the state, nothing against the state, nothing outside the state"

6 **Criticism of Socialism** It is important to note that the Fascists had absolutely no truck with socialism, evolutionary or revolutionary While socialists underlined the significance of the economic forces in a country, and spoke in terms of class-war and the materialistic interpretation of history Fascists criticised the socialist attitude of reducing man to the level of animals, which care only for material things like food and cloth Fascists said that in human life there are precious things beyond the bare physical existence of man Factors like religion and patriotism play a vital role in human life

7 **Against Intellectualism and Human Values** Fascism is diametrically opposed to all human values and feelings While all agree that the human mind and intellectual power raise man above animals, Fascists took a stand against intellectualism Fascists wanted absolute obedience from all all were to behave like faithful dogs to the Duce, who had no use of the intellectual power of the people In fact, people cannot understand national problems and their only work is "to have faith to obey and to fight ' According to Fascists, educated people talk unnecessarily and play with knowledge without understanding their own responsibilities The only force which Fascism recognised in Italy was brute force, which they used at all times It is difficult to say which was more ruthless, Hitlerism, Fascism or Communism Sympathy, pity, love, under standing, regard for others, morality and such other values, which make man a real human being were totally alien to Fascist thought

8 **Church Silenced through Compromise and Conciliation** Fascists in Italy showed the worst type of opportunism There was a time, when Mussolini said that there were two religions, one black and another red, and 'two Vaticans were sending fourth their encyclicals one in Rome and the other in Moscow and Italians should be heretics to both But after 1921 the time-server Mussolini changed his attitude towards the Catholic Church The practical-minded Duce thought that the Vatican-Italian Accord of 1929 was necessary, as the church, the Fascist rival could be silenced only through compromise and conciliation To appease the Catholic Church, the Pope s temporal authority over the City of the Vatican was recognised, and religious instruction to the children

of Catholics was made compulsory in schools Such a *volte face* indicated the extreme opportunism of Fascists Fascists developed "friendship" with Catholics and continued it during the entire rule of Mussolini

9 **Ideals of Superior Class and Superior Nation** Mussolini spoke in terms of racial superiority, and in this respect, he was like Hitler, though he never reached the fanatical heights of Hitler The Fascists believed that in every country, there was a superior class of people, who alone could rule, and similarly, there was a superior nation, whose lead other nations should follow Just as the ruling class can dominate over all in a nation, in the world the superior nation can dictate terms to the inferior and weak nations Italians were decidedly superior to Ethiopians according to Fascists, and it was right for Italy to extirpate Ethiopians, and annex their country Italian aggression on Ethiopia in 1935 can be thus explained

W Ebenstein points out the following principal features of Fascism

(1) Distrust of reason
(2) Denial of basic human equality,
(3) Code of behaviour based on lies and violence,
(4) Government by elite,
(5) Totalitarianism,
(6) Racialism and imperialism, and
(7) Opposition to international law and order [1]

E Evaluation of Fascism

Let us briefly discuss the merits and defects of Fascism

Merits After the end of World War I, when Italy was facing numerous problems it was Fascism that rescued her from demoralisation Mussolini and other Fascist leaders working under him galvanised and vitalised the Italian nation Italians became proud that they belonged to the land of Julius Caesar, and in ancient times Rome was the mistress of a mighty empire Mussolini raised great hopes and expectations among the people to see their nation once again as the leader of the world

Defects The following are the defects of Fascism

1 **Aggressive Nationalism Imperialism and War** Fascism is based on aggressive nationalism, imperialism and war Nationa

1 See *To-day s Isms* (1958) p 95

lism developed by Fascists is perverted, and it is the younger brother of imperialism Fascist Italy was guilty of committing aggression on Ethiopia and making a mockery of the principles of the League of Nations Italy along with Germany and Japan brought untold suffering to humanity

2 **Individual Tool of the State** Fascism converts the individual into a tool of the state, and makes the state totalitarian Fascism does not recognise the dignity of the human personality, and sacrifices the individual at the altar of the state The individual has no rights in the Fascist state

3 **Ruthless Dictatorship** Fascism has contempt for democracy and all that is allied to it It is ruthless in its methods, and is entirely alien to human compassion, sympathy and understanding *Fascism becomes the basis of dictatorship of the worst type*

4 **Misleading** Fascism misled the Italians by upholding false ideas Mussolini invited ruin to himself and to Italy Italy and other countries had to pay a heavy price for Mussolini's mistakes

MAIN POINTS

1 **Meaning Origin and Growth of Fascism** Combination of opportunism absolutism and violence Fascism a mixture of the ideas of Hegel Machiavelli Sorel and others Imperialist ambitions of disgruntled Italy under Mussolini s leadership Fascism to be world-wide movement Monarch brushed aside and democratic institutions discredited Totalitarian control by Mussolini

2 **Features of Fascism** 1 Emphasis on aggressive nationalism 2 Imperialism and war 3 Italy a corporate state Federation of the institutions of employers and employees 4 One-party state destroying all non-fascists 5 Injection of fear and totalitarianism 6 Criticism of socialism 7 Against intellectualism and human values 8 Compromise and conciliation with the church 9 Superior class and superior nation

3 **Evaluation** Merit—Solved problems of Italy and made Italy a great power Defects—1 Aggressive nationalism imperialism and war 2 Individual tool of state 3 Ruthless dictatorship 4 Mislead Italy and world

CHAPTER 34

NAZISM

A Meaning of Nazism

Difficult to Define It is easy to explain the ideology of the Nazis and the activities of the Nazis under Hitler, but it is almost impossible to give a precise definition of Nazism "There has been no consistent political philosophy of Nazism The Nazi ideology was a cocktail made up of one jigger of simplified Hegel, one jigger of vulgarised Nietzsche, and a dash of misunderstood James, mixed by Rosenberg and served by Goebbels "[1] Carl Schmitt was the most original of Nazi ideologists, though Alfred Rosenberg was more famous than he

B Origin and Growth of Nazism

Favourable Factors Certain factors were favourable for the rise of Nazism

1 Fall of German Empire The German Empire disintegrated owing to Germany's defeat in World War I, and on the ruins of Germany and other defeated powers new states rose Germany was forced to recognise the complete independence of Austria, Belgium, Poland and Czechoslovakia Germany's surrender was complete, and she lost all her colonies

2 Vindictive Treaty of Versailles The vindictive Treaty of Versailles (1919) was imposed on Germany, whose humiliation was complete The proud nation built by Bismarck and the Kaisers lay in the dust In 1923, the Ruhr Valley was occupied by Belgian and French soldiers The victorious powers took steps to destroy Germany's military strength The de-militarisation of the Rhineland and reduction of the army and navy to a very low level were some of the measures taken to prevent the rise of Germany again

3 Heavy Reparations Germany was forced to agree that she alone was responsible for World War I and as a result she

1 J S Roucek and Others *Introduction to Political Science* (1954) p 91

was called upon to make very heavy reparations No nation in Germany's position could ever dream of paying fabulous amounts without sacrificing the present and mortgaging a long future

4 Great Economic Distress and Complete Despair The abject surrender of Germany was coupled with acute economic distress Soaring prices owing to inflation, which had assumed Frankenstein proportions, unemployment and loss of national pride made Germany quite desperate As a man who is completely degraded and downtrodden is prepared to resort to any measures, Germany was getting ready to take any steps to put an end to the desperate state of affairs Obviously a desperate situation required a desperate remedy "It seems obvious that the triumph of Nazism was not the result primarily of philosophical influence Instead, it grew out of the humiliation and despair of the German people and their feeling that almost any change would be a change for the better Although the majority were not yet Nazis, their despair was so great as to induce them to accept almost any messiah who promised to deliver them from confusion and fear "[1]

Nazism appeared as a remedy to vitalise Germany, but it proved to be a disease to the world World War II broke out as a result of this dreaded disease

Anton Drexler The Nazi movement was originated by Anton Drexler To begin with, there were not more than twentyeight members wedded to the new cause The group, which was the seed of Nazism had no clear-cut policy or programme But the psychological approach made by it was of great significance Ger mans liked being told by the group that in the true sense of the term Germany was not defeated by the Allies, but was let down or deceived in the last round, when she was within an ace of victory Hitler was one of the few who were very active in the group

Hitler's Great Concern for Germans ' Adolf Hitler, the son of a petty customs official in the Austrian civil service was born in 1889 His early life was filled with discontent, resentment and frustration In the beginning, Hitler was an obscure figure, who had participated in World War I He was highly egoistic, emotional and sentimental It was Hitler, who infused a new spirit in his group and made the Nazi movement militant and revolutionary, Hitler said "What we have to fight for is security for the exis-

1 E M Burns *Ideas in Conflict* (1960) p 223

tence and increase of our race and our nation, nourishment of its children and purity of its blood, freedom and independence for the Fatherland, and that our nation may be able to ripen for the fulfilment of the mission appointed for them by the Creator of the Universe "[1]

Nazi Party under Hitler It was the Nazi Party led by Hitler, which seized power in Germany, and brought about revolutionary changes In spite of all the efforts of the victorious powers to keep Germany down, she rose again from the ashes, flung a challenge at democratic states, and plunged the world into a world catastrophe

The Nazi party was originally called the German Workers' Party, and in 1920 it was known as the National Socialist German Workers' Party In course of time, it was called the National Socialist Party Capitalists and the upper middle classes had no sympathy for the party, as it stood for revolutionary ideas like forfeiture of war profits, expropriation of land and nationalisation of trusts It spread fanaticism and hatred, and was bent on destroying the Jews and the communists Its anti-semitic and anti-communist attitude increased its popularity, and the military forces and students supported it

Abortive Putsch by Ludendorf and Hitler in 1923 An event in 1923 raised the strength and popularity of the party General Ludendorf and Hitler participated in an abortive *Putsch* in Munich to overthrow the government Hitler was sentenced to five years' jail But within bars, Hitler wrote his *Mein Kampf* (My Struggle), which was destined to be the *Veda* of Nazism Even the failure of the revolt was of great significance to the National Socialist Party, as it was able to know that the reactions of the people were favourable to it

Hitler and the Storm Troopers Infused New Hope in Germans The National Socialist Party capitalised on the sufferings, frustration and humiliation of the Germans, and tried to capture the minds of the youth in devious ways The call of the party had a good response from youngsters and it was thus possible to raise the 'storm troopers" The youth in Germany was made to feel that at last Germany had a militant organisation which could channelise the emotions and feelings of the people, give the fullest scope to their enthusiasm and rebuild Germany Even those who disagree with the Nazis will appreciate the extraordinary efforts

1 Adolf Hitler *My Struggle* (1937) p 96

made by them to infuse new hope and discipline in the people of a nation, which had been trampled to dust at Versailles

Owing to the dynamic leadership of Hitler, the Nazi Party grew from strength to strength rapidly The Nazi Party's appeal became more and more meaningful to all, when economically Germany was demoralised completely Almost every country in the world was feeling the effects of an awful economic crisis Germany neckdeep in debt had no hope of getting any aid worth the name from any foreign country Germans felt that the con cession offered by her creditors had no grace in them, as they were ill-timed, and came only when Germany had gone too far on the path of economic ruin

The generous attitude of the victorious powers could not be appreciated by Germany, as the softening process began too late When it was all darkness for Germany, it was Hitler who gave it hope

The paralysed nation had found a leader at last Hitler roused great hopes in the minds of the people The nation was electrified as Hitler pictured a rosy future of Germany

Success in Elections and Formation of Government The Nazi Party became increasingly popular as evident from the elec tion results While in 1924 the Nazi Party annexed only 32 seats in the Reichstag, in 1933 it secured 288 seats Chancellors like Brunning, Papen and Schleicher were unable to deliver the goods, and in 1933 the President invited Hitler to be the Chancellor, though the Nazis had not yet secured a majority in the Reichstag An earlier invitation to form a government had been spurned by Hitler, as he was asked to include also members from parties other than the Nazi, but this time Hitler agreed, as no such conditions were laid down

Hitler as Dictator On the death of President Hindenberg, Hitler managed to secure his election as President, and in his per son the posts of the President and the Chancellor were rolled into one The Weimar Republic was abolished, and Hitler proclaimed the establishment of the Third Reich with himself as dictator The Weimar Constitution might have succeeded in a country with democratic traditions After World War I, Germany was having the first democratic constitution of its kind in history and this was bound to fail Hitler made use of all his power and resources to spread Nazism in Germany, and all other parties were suppressed

tence and increase of our race and our nation, nourishment of its children and purity of its blood, freedom and independence for the Fatherland, and that our nation may be able to ripen for the fulfilment of the mission appointed for them by the Creator of the Universe "[1]

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Hitler the Fuhrer boasted that his Reich would last for a millenium, but it ended in May 1945, when he committed suicide to prevent his capture by the Russians, who had cut through the defence of Berlin

C The Salient Features of Nazism

The following were the salient features of Nazism

1 Action First Like the Fascists under Mussolini in Italy, the Nazis under Hitler in Germany laid most of the emphasis on action first and little on theory Such a stand was inevitable, as the minds of the masses had to be captured

2 Philosophy and Propaganda The Nazis took advantage of the philosophy of writers who preached aggressive nationalism and glorified Germany Kant Fichte Nietzsche and Hegel were their favourite philosophers Hitler enslaved the German mind by intense propaganda and provoked the German youngsters for war and aggression Hitler s propaganda underlined the importance of *Fuehrerprinzip* (leadership principle) Nationalism, Racism, Anti-Semitism *Lebensraum* (living space) and Expansionism

3 State a Super-Personality The Nazis glorified the German nation, and made the people patriotic and ultra-nationalist The idealism of Hegel came very handy The state was never to be resisted, but was to be glorified and deified The individual had no rights against the state The state was regarded as a super-personality at whose altar the individual was to be sacrificed The greatest happiness of the individual lay in obeying the state implicitly and working for its greatness

4 Racial Superiority and Anti-Semitism Hitler and the other Nazi leaders flattered the Germans in the most ridiculous way, and reminded them that they belonged to the greatest race in the world The Nazis fully exploited race theories in their favour and modified theories wherever necessary to play on the emotions and sentiments of the people In German racialism, one could see the ideas of Rosenberg Gobineau and Chamberlain "According to Rosenberg, Nordic superiority accounted for all the great cultures of the past, including those of Greece and Rome All decay and corruption resulted from the infusion into the superior race of blood from inferior strains he urged the German people to adopt Nordicism as a religion in place of Christianity"[1]

1 E M Burns *Ideas in Conflict* (1960) p 226

The main ideas of the Nazis regarding race can be summarised thus

(a) Survival of the Fittest The law of life is the principle of the survival of the fittest The weak and the half-developed human beings have poor prospects of survival The Nazis laid emphasis on the social struggle between groups and not between individuals

(b) Superiority of White Race The white race is superior to the coloured races Among white people, the Teutons stand first, and among the Teutons the Germans occupy the first rank Hence, it is the duty of the Germans to preserve their rank and see that they do not allow the racial purity to diminish or disappear Human beings can be classified as completely human and sub-human The people belonging to the Nordic race are completely human The coloured people, chiefly the black ones are sub-human, and they are between the Nordics and the animals

(c) Against Polyglot State Hitler spoke against the polyglot state, which according to him is inferior to a state having people of a pure race Germany should have the Nordic elements only, and the people of the inferior races should be got rid of During World War I and after, Germany *suffered* owing to the presence and activities of the non-Nordics The Jews and the Marxists came in for the most scathing criticism, and according to the Nazis, they stabbed the Germans in the back, when they were about to win in World War I

(d) Persecution of Jews The Jews should be persecuted and hounded out of Germany, as they were a curse on Germany, and were responsible for the poverty and misfortune of the German fatherland

(e) The Weak to be Eliminated Great emphasis was laid on heredity Physically weak, diseased and inferior people should have no right to procreate children Laws were passed to encourage the begetting of strong and healthy children, and the weak were sterilised People suffering from incurable diseases were subjected to *euthanasia* (mercy killing) Marriages between the Nordic people and the Jews were forbidden, and marriages between people of the superior race were encouraged

(f) Men for War and Women for Progeny In Nazi Germany, men were meant for war and women for progeny Women of the pure Nordic stock were encouraged to beget more and more children in the interests of the German nation Education of women

aimed at fine motherhood, and the greatest importance was given to women's physical development German eugenics went against the normally accepted ethical codes of the world "Round up a thousand German girls of the purest stock Isolate them in a camp Then let them be joined by a hundred German men equally of the purest stock" said a German advocate of racialism

5 **One Party Authoritarian and Totalitarian State** Like the Fascist state of Italy, the Nazi state of Germany was a one-party state After capturing power, Hitler suppressed all other parties, and showed ruthless authoritarianism and totalitarianism He had no human consideration for anyone, who crossed his path or came in the way of the glorification of the German nation For the good of Nazism and for protecting the interests of the German state, he felt it necessary to degrade the Jews and treat them as the worst enemies of Germany Thousands of Jews were driven out of the country, many were sent to concentration camps, and subjected to tortures of the most brutal type, and the rest were humiliated in devious ways and allowed to die a slow death As inhabitants of an authoritarian and totalitarian state, the Jews were absolutely helpless

Hitler thought that it was necessary to control every aspect of the life of the Germans The minds of the people were treated to the most powerful type of propaganda Dr Goebbels was the human instrument of Hitler's propaganda, and he brought the press, the radio, the films, the educational institutions and the literature under the control of the state The simplest ideas were propagated in the simplest possible manner by the best propaganda machinery Much of the propaganda was based on falsehood, but that did not matter In fact falsehood was at a premium, as it was believed that the bigger the lie the better it was and "a bold lie, if big enough is likely to gain credence by its very bigness"

6 **War, Aggressive Nationalism and Imperialism** Like Mussolini, Hitler was a firm believer in the 'virtues' of war, aggressive nationalism and imperialism All methods were used to rouse the patriotic and national feelings of the people Love for Germany had to go along with hatred for other countries, who were responsible for the miserable plight of Germany Hitler called upon the Germans to sacrifice butter and have guns so that they could have both Hitler advocated the use of force and terrorism, and upheld the principle of the survival of the fittest or the law

of the jungle Hitler laid great emphasis on the importance of *lebensraum* or living space for the sake of food supply and the nation's security To make Germany a great force, conscription was introduced, and the German army committed aggression on states like Austria and Czechoslovakia The Nazis were responsible for several murders and plots for political gain in other states

Hitler's nationalism was alien to international harmony and brotherhood The problem of the Jews was solved by murder, indebtedness by repudiation, unemployment by war industries and want of space by aggression

In September 1939, World War II began owing to the soaring ambitions of Hitler In the early phase of the war Germany won rapidly and became the mistress of Europe But in the later days, she suffered a setback, and in 1945 she was defeated and compelled to surrender Then Hitler committed sucide

7 **Body and Soul of Everyone under Nazi Dictatorship** Nazism stood for dictatorship Hitler was regarded as the *Fuhrer* or Leader, and he was to be worshipped in the same way in which Stalin was deified in Russia, though Nazism differed much from communism Nazism "set up the paraphernalia of dictatorship, the bodyguard of the *Fuhrer*, the party troops, the secret police, the propagandist control (Dr Geobbels' Ministry of Propaganda and Enlightenment), the concentration camps, the labour camps, the official agencies and indoctrination But it was more ruthless and thorough than its Fascist predecessor"[1] Hitler used all his powers fully in bringing the body and soul of everyone in Germany under his control All, young and old, industrialists and workers, teachers and the taught came under national discipline and the regimentation of life There was no God but Hitler, no *ism* but Nazism, and no religion but nationalism The culture of the people was thoroughly modified and controlled to serve the ends of Hitler's dictatorship

1 **Anti-religious** Nazism was anti-religious Neither Roman Catholicism nor Protestantism could serve the purpose of the Nazis, and hence both were condemned The only God and priest the Nazis knew was their *Fuhrer*, who was given a place higher than the one given to Jesus The Nazis cared only for brute force, and nobody would expect them to consider religious and spiritual values

1 Mac Iver *The Web of Government* (1959) p 251

D Evaluation of Nazism

Merit It was true that Germany, which was humiliated by the victorious powers at Versailles rose again and registered tremendous progress owing to the efforts of Hitler, the father of Nazism Once again, the Germans became proud, and secured a place in the sun It was Nazism that wiped out national disgrace, frustration, despair and humiliation Problems like unemployment were solved by Hitler s dictatorship

Defects However, defects in Nazism more than counterbalanced the merits The following were the defects of Nazism

1 **Remedy Worse than Disease** The defects of Nazism became glaring, and Nazism which was regarded as the panacea for all the ills of Germany became a fatal disease, which brought great sufferings not only to Germany but to the whole world

2 **Loss of Liberty** The Germans lost all their liberty in the Nazi regime Their life was controlled and regimented The worst type of authoritarianism and totalitarianism manifested themselves under Hitler s rule Nazism was built on the worst type of ruthlessness People were suppressed in different ways, and were forced to join the army They were made war-minded, and compelled to commit aggression on other countries

3 **Destruction and Misery** Nazism brought destruction to Germany, and caused misery to people all over the world Even now, the world has not recovered fully from the shocks administered by the Nazis during World War II

4 **Alien to Morality and Spiritual Values** Nazism was openly anti-religious and anti-spiritual It was alien to all accepted principles of morality and ethics, and showed a degree of ruthlessness, which the world had never witnessed before Nazism jettisoned all human values and brutalised man Hitler revived the law of the jungle, which prevailed in the prehistoric times, and made use of science to uphold barbarism Nazism persecuted the Jews, and killed millions of Jews for " the good of Germany "

5 **Violence and Hatred** Nazism preached inequality, violence and hatred While the world became used to the concepts of liberty and equality in the nineteenth and twentieth centuries, the Nazis put the clock back by preaching the superiority of the Nordic race and anti-Semitism Similarly they were against putting women on a footing of equality with men To them, woman was nothing more than a biological tool or a child-bearing machine

MAIN POINTS

1 **Meaning Origin and Growth of Nazism** Difficult to define Nazism a cocktail of different elements Mixture of ideas of Hegel Nietzsche Rosenberg and others Na ism as a reaction against the vindictive Treaty of Versailles and Germany s humiliation Na i movement started by Anton Drexler Emergence of Hitler as Na i leader Abortive Putsch in 1923 New hope and spirit infused by Hitler and the Storm Troopers Success of Na is at the polls Hitler as President and Chancellor

2 **Features of Nazism** 1 Great emphasis on action 2 Philosophy and propaganda Influence of Kant Fichte and others 3 Na i state as super-personality 4 Authoritarian and totalitarian control 5 Racial superiority and anti semitism 6 Emphasis on aggressive nationalism imperialism and war 7 Ruthless dictatorship 8 Anti-religious

3 **Estimate** Na ism cured the ills of Germany temporarily but ultimately it became a remedy worse than the disease Defects-1 Loss of Liberty 2 Great destruction and misery 3 Agains Religion and morality 4 Promotion of violence and hatred

CHAPTER 35

GANDHISM AND SARVODAYA

The principles of Mahatma Gandhi and of the leaders of the Sarvodaya movement have to be considered in the study of the sphere of the activity of the state

I Gandhism

A Mahatma Gandhi (1869-1948)

In South Africa Mohandas Karamchand Gandhi emerged as a leader in the political movement in South Africa, where the Government subjected Indians to great discrimination and to the most humiliating treatment in the early part of the twentieth century He became famous in South Africa as a champion of truth, non-violence and the dignity of the human being

Return to India Gandhiji returned to India in 1914, and dedicated the remaining years of his life to the cause of his motherland Gandhiji's faith in the British sense of justice was completely shaken, when Britain suppressed the legitimate aspirations of Indians after the end of World War I He took full advantage of the ground prepared by Lokamanya Tilak, and led India successfully through the freedom struggle during what was called the Gandhi Era (1920–1948) For the first time in the history of the world a saint-politician was leading the millions of a slave country and teaching them the practical use of weapons like non-violence, non-cooperation, and civil disobedience In 1942, Gandhiji called upon the British to Quit India, and the people were asked to Do or Die Five years and seven days after he asked the British to Quit, India secured complete independence (August 15 1947)

On January 30, 1948 he was shot dead by Nathuram Godse Gandhiji received during his life time almost divine honours from the masses of people, who affectionately called him *Bapuji*, *Mahatma* and the Prophet of Sabarmati He is affectionately and respectfully remembered by Indians as the Father of the Nation

B Basic Ideas of Mahatma Gandhi

The following are the basic ideas of Mahatma Gandhi

1 No Political Creed, but Application of Eternal Truths In 1936, Mahatma Gandhi said that there was no such a thing as Gandhism, and he did not want to leave a sect after him Gandhiji said "There is no such thing as *Gandhism*, and I do not want to leave any sect after me I do not claim to have originated any new principle or doctrine I have simply tried in my own way to apply the eternal truths to our daily life and problems There is, there fore no question of my leaving any code like the *Code of Manu* "[1] Though it is true that Gandhiji did not keep his mind closed, and did not evolve a philosophy, which can be reduced to a few principles or dogmas as Marx or Engels did, it is possible to draw out clear-cut ideas from the way in which Gandhiji conducted his Experiments with Truth, and gave out his views on political, social, economic and religious questions in his books and papers

His influence through his way of life, particularly during the struggle for freedom, was indeed immense, and people started speaking in terms of the Gandhian path or Gandhian philosophy The influence of Gandhiji was so great as a non-violent crusader for freedom that he became a problem to the British Government, which many a time was puzzled as to what to do with him, for it was dangerous to give him freedom to speak or move freely, and it was at the same time equally dangerous to put him in jail

Here we are concerned mainly with Gandhiji's ideas on political institutions The way in which Gandhiji lived, the technique he employed in fighting against the most powerful empire in history, his pronouncements from time to time, the books that he wrote and the paper *Harijan* that he published enable us to get a clear picture of Gandhian thought

2 Influence of Ruskin, Thoreau and Tolstoy and of Scriptures Gandhiji's ideas were influenced by the writings of Ruskin, Thoreau and Tolstoy Gandhiji, who practised religion in the true sense of the term was influenced by the *Vedas*, the *Bhagavadgita*, the *Bible*, the *Koran*, and the *Zend Avesta* It is necessary to point out the influence of religion, as Gandhiji's political thought was mixed with religious principles Even in politics, Gandhiji would not tolerate deviation from the path of righteousness and justice The influence

1 All *Men are Brothers Life and Thoughts of Mahatma Gandhi as told in his own words* (UNESCO) (1958) p 47

of Becharji Swami, a Jain monk was immense on Gandhiji in his young days It was this Swamiji, who called upon Gandhiji to take vows not to touch meat, wine and women before proceeding to England

Destiny was preparing Gandhiji for his great political role in India

3 State a Soulless Machine Destroying Individuality As an advocate of non-violence and philosophical anarchy, Gandhiji was against the state His anti-state attitude was justified on historical, ethical and economic grounds According to him, there is no example in history of a state, which stood as a champion of the poor The state employs force, and its existence cannot be justified on moral grounds By the use of violence, the state deprives the moral value of the individual's action "The individual has a soul but as the state is a soulless machine, it can never be weaned from violence to which it owes its very existence" The state hinders progress by destroying individuality, which is the chief cause of progress While it is apparently true that the state does good by reducing exploitation, it does great harm by its increasing reliance on force

4 Federation of Satyagrahi Village Communities Based on Voluntary Co-operation Gandhiji's ideal is a stateless democracy, in which there is a federation of *satyagrahi* village communities, functioning on the basis of voluntary co-operation, and dignified and peaceful co-existence "Thus every village will be a republic or panchayat having full powers It follows, therefore, that every village has to be self-sustained and capable of managing its affairs even to the extent of defending itself against the whole world Such a society is necessarily highly cultured in which every man and woman knows what he or she wants, and what is more, knows that no one should want anything that others cannot have with equal labour"[1]

5 Decentralisation Bread Labour and Classless Society While in the present day democracy there is a great deal of centralisation and inequality, in a stateless democracy there is decentralisation and equality Non-possession and bread labour should be the ideals of this society 'If all laboured for their bread and no more, then there would be enough food and enough leisure for all Then there would be no cry of over-

1 M K Gandhi *India of My Dreams (1959)* p 99

population, no disease and no such misery as we see around There will be no rich and no poor, none high and none low, no touchable and no untouchable "[1] While in the state, as it exists now, the growth of individuality is retarded, in a stateless demo cracy every individual gets the maximum freedom to devote himself to the service of society according to his calibre or capacity Exploitation has scope in a democratic state but in a stateless democracy, which functions according to the principles of non-possession or bread-labour there can be no scope for exploitation "Gandhiji was a firm believer in a classless, egalitarian society in which there would be no distinctions of rich and poor, high and low In some respects he went further even than the orthodox socialists inasmuch as he would not exempt anyone from obli gatory socially useful body-labour "[2]

Gandhiji laid emphasis on a rural civilisation in which there will be no exploitation of one man by another Thus democracy will be real

6 Decentralised Production Gandhiji was against highly centralised production, and advocated decentralised production The idea was not to do away entirely with machinery as such but to prevent the concentration of power in the hands of a few rich In Gandhian economy, a prominent place is given to handicrafts

The salient features of Gandhian economy are

"(1) Intensive, small-scale, individual, diversified farming sup ported by co-operative effort as opposed to mechanised, large-scale or collective farming

(2) Development of cottage crafts ,

(3) Cattle-based economy

(4) Proper balance of animal, human and plant life ,

(5) Voluntary protection of both human and animal power against the competition of machinery as the price of social insurance "[3]

7 Democracy and Village Panchayats Gandhiji was aware of the fact that all his ideas could not be realised, for instance, it was too much to expect the early realisation of a stateless democracy While stateless democracy is the ideal, for some time at least, the state is necessary To Gandhiji, the state was not

1 Ibid p 58
2 Pyarelal *Towards New Horizons* (1959) p 201
3 Ibid p 11

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1 Ibid p 58
2 Pyarelal *Towards New Horizons* (1959) p 201
3 Ibid p 11

the end, but only a means to the end of securing the good of all He never regarded the state as sacred, and was against its absolute authority Among existing forms of government, Gandhiji preferred democracy In the Gandhian state, village panchayats will play a vital role and their members are to be directly elected Voters are to have the qualification of manual work Gandhiji always underlined the importance of bread work

8 **State Based on Ahimsa** Mahatma Gandhi was against violence in thought, word and deed In the West the most prominent prophet of non-violence in modern times is 'the noted Alsatian Albert Schweitzer physician musicologist Biblical scholar, and philosopher he is a rare and outstanding example of versatility in an age when most men find difficulty in mastering a single field" Mahatma Gandhi clearly tells us what *ahimsa* is "Ahimsa is not the crude thing it has been made to appear Not to hurt any living thing is no doubt a part of *ahimsa* But it is its least expression The principle of *ahimsa* is hurt by every evil thought, by undue haste by lying by hatred, by wishing ill to anybody It is also violated by our holding on to what the world needs"[1]

As it was not possible for the state to give up violent methods he desired it to make use of the least coercion The state is allowed to use adequate force to suppress insurrections Hence, Gandhiji did not speak in terms of the state abdicating its duty of protecting life and putting down violence in the name of *ahimsa* As a realist, Gandhiji admitted the need of using force

The ideal, however, is a state functioning on the principle of *ahimsa* This is possible, when there is good will and crime is absent Such a state in which justice prevails is *Rama Raj* Gandhiji became a champion of *ahimsa* after reading Tolstoy's book *The Kingdom of God is Within You*

9 **Rights** People in the state envisaged by Gandhiji have various rights and duties The Indian National Congress at the Karachi Session passed a resolution on rights, according to Gandhiji's ideas The Mahatma's influence on the Constitution of India can be seen in the Fundamental Rights which are guaranteed by the Constitution As a thinker who disliked the absolute sovereignty of the state Gandhiji gave the citizen the right and duty of disobeying the laws of the state

1 *Satyagraha* (1958) p 41

10 Property as Trust and not as Instrument of Exploitation Gandhiji was against the use of property as an instrument of exploitation He favoured the idea of dispossessing everyone of private property through non-violent methods to bring about an equitable distribution of income immediately and an equal distribution ultimately Capitalism and landlordism should be removed through non-violent methods Those who have property must regard it as trust and not as a means of exploiting others "The theory of trusteeship makes no distinction between private and non-private property All property is held in trust, no matter who possess it, and what its nature or quantity is Indeed the theory of trusteeship applies not only to tangible and transferable property but also to places of power and position "[1] Trusteeship implies the transformation of the present capitalist system of society into an egalitarian system If capitalists continue to exploit the poor, the state should take over their property Property is not to be a source of profit as in the capitalist system, but a source of the people s welfare Gandhiji was profoundly influenced by Ruskin s book *Unto This Last*, which spoke highly of a life of labour

11 Good End and Good Means Gandhiji was in favour of good end and good means To him, the end can never justify the means To realise the Gandhian state, only fair means are to be used Non-violence and truth form the soul of Gandhiji's technique

Gandhiji's Technique In studying Gandhiji s technique, it is necessary to know the meaning of *ahimsa* and *satyagraha*

Ahimsa *Ahimsa* or non-violence can be regarded as the soul of Gandhian technique Gandhiji spoke of three types of non-violence

(a) the non-violence of the brave or enlightened non-violence is of the best type

(b) the non-violence as an instrument of expediency comes next,

(c) the non-violence of the coward comes last

Satyagraha Evil should be resisted through *satyagraha*, a moral weapon based on soul force, which is superior to physical force Bharatan Kumarappa says '*Satyagraha* means literally 'clinging to truth', and as Truth for Gandhiji was God, *satyagraha* in the general sense of the word means the way of life of one who holds steadfastly to God and dedicates his life to him The true *satyagrahi*

1 K G Mashruwala *Gandhi and Marx* (1959) p 79

is, accordingly, a man of God "[1] Mahatma Gandhi has explained the meaning of *satyagraha* in his *Satyagraha* "The term *satyagraha* was coined by me in South Africa to express the force that the Indians there used for full eight years and it was coined in order to distinguish it from the movement then going on in the United Kingdom and South Africa under the name of Passive Resistance Its root meaning is holding on to truth hence truth-force I have also called it Love-force or Soul-force "[2]

Satyagraha can assume the form of (a) non-cooperation, (b) fasting, (c) striking, (d) civil disobedience and (e) *hijrat*

(a) Non-cooperation This is to be directed against a government or authority, which will be helpless (if people do not cooperate) Non-cooperation can assume the form of *hartal*, boycott and picketing

(b) Fasting This is a non-violent weapon to be used against injustice and evil Fasting is not to be resorted to by all and sundry Only those with the required moral strength, and purity of mind should make use of it on rare occasions Fasting should not be regarded as a weapon of moral coercion

(c) Strike As regards strikes, Gandhiji wanted them to be voluntary and non-violent Striking involves the stoppage of work to indicate protest and focus the attention of the public on a certain issue A strike as a weapon in Gandhiji's non-violent armoury should be absolutely voluntary and non-violent

(d) Civil Disobedience Disobedience should always be civil and never criminal, it should assume the form of a non-violent revolt

(e) Hijrat *Hijrat* means voluntary exile to escape from oppression and injustice For instance, if a particular community in a village is subjected to oppression, and the members of this community are incapable of having the courage of true *satyagrahis* the best course open to them, is to leave the village of their permanent residence

12 Sympathy for Criminals, Cheap Justice and Labour Tax Gandhiji's approach to the problems of crime, justice and taxation was uncommon In the *raj* of Gandhiji's dream, criminals are not to be treated as brutes on whom society should take revenge The state should help criminals to reform themselves and

1 Editor s Note M K Gandhi *Satyagraha* (1958) p iii
2 Op cit p 6

give up their criminal mentality To do this, the state should look upon prisons not as cells of torture (in which a criminal goes from bad to worse) but as schools and reformatories Jail officers should be sympathetic towards prisoners and help them to change the course of their life

As regards administration of justice, Gandhiji was against the present system in which litigation is costly and justice is unduly delayed He favoured the administration of justice through *panchayats* and also advocated the method of settling disputes through arbitration

Taxation should be by way of labour and not through cash This would save a lot of expenditure which every state has to incur to collect taxes Moreover, taxation through labour will benefit the area in which *labour tax* is imposed

13 Harmony between Nationalism and Internationalism Gandhiji laid emphasis on the importance of nationalism in its noblest form As a great patriot and nationalist, Gandhiji set an example to the people of India to serve their own land nobly and unselfishly Gandhiji was against nationalism based on violence and aggressive tactics He stood in favour of world peace, and wanted to bring about a harmony between nationalism and internationalism People in a country should be patriotic but at the same time, they should be friendly towards the people of other countries

14 Politics Intimately Connected with Religion and Ethics : Gandhiji established intimate connection between political principles and religious and ethical principles Words like *Ramrajya* and *Harijan* have a religious colour In bringing religion and politics together, the Mahatma tried to maintain a truly high standard When we say that Gandhian politics is coloured by religion, it should be remembered that Gandhiji's religion was the sum-total of the good in all religions Gandhiji collected the noble principles of Hinduism, Zoroastrianism Buddhism, Christianity and Islam and tried to live according to them Non-violence and truth, which every religion values provided a basis to every political activity of Gandhiji

It is necessary to make a few observations on Gandhian politics to explain its uniqueness and its intimacy with religion

(a) Gandhian politics is never based on expediency, and Machiavellianism has no place in it

(b) It is wedded to truth and non-violence

(c) The end does not justify the means The end as well as the means should be invariably good

(d) In the state there should be feelings of brotherhood in all, and Hindus, Muslims, Sikhs, Christians and people of other religions should all live in peace and amity

C Evaluation of Gandhian Thought

Let us briefly discuss the merits and defects of Gandhian thought

Merits The following are the merits in Gandhian thought

1 Gandhiji's Influence as Champion of Truth and Non-Violence The influence of Mahatma Gandhi on the politics of India has been tremendous Every pronouncement of Gandhiji on the political situation in India was of great significance to all, to his admirers and critics As a fighter for freedom, Gandhiji actually demonstrated that the principles of truth and non-violence were not the mere theme of an idle talk, but the core of actual action For more than three decades, Gandhiji dealt with his opponents particularly the British Government in an uncommon and un precedented manner He made it clear that he would never deviate from the path of truth and non-violence whatever might be the result Gandhian thought teaches detachment Gandhiji fought his non-violent battles with the spirit of a *karmayagi* Whenever the national movement took a violent turn as at Chawri Chaura (1922), he called it off

2 Constructive Political Ideas While Gandhiji's negative contribution by way of non-cooperation and *satyagraha* was immense, in the positive sphere too it was great Gandhian tho ught has constructive political ideas, which he actually translated into practice on several occasions Decentralisation of political power, a democracy of village communities, decentralised produc tion, bread labour, elimination of exploitation, taxation through manual labour, prison reforms, private property to be held in trust and the state functioning as an agency of service on the basis of non-violence clearly reveal the strong points of Gandhian thought It is true that it is dangerous to allow the state to wield absolute power Decentralisation of political power and decentrali sation of production, when introduced judiciously will do immense good to a country Gandhian thought lays great emphasis on service, and expresses itself strongly against power as a weapon Power brings unhappiness, while service promotes human welfare

Gandhian socialism is averse to exploitation of man by man and class by class

3 For Individual Liberty and against Exploitation Gandhiji stood for individual liberty and against exploitation The individual is given an important place in Gandhian thought Gandhiji spoke highly of the importance of liberty and equality While revolting non-violently against the British government, Gandhiji revealed himself as a champion of the underdog While he showed no illwill to the British King, the Prince of Wales, the Viceroy and Governors as individuals, he stood against them, as they represented a system of imperialist exploitation which degraded man and brought poverty to India Gandhian politics gave a place in the sun to the poor man and his causes

4 Broad-minded As a thinker, Gandhiji was broad-minded Though a Hindu himself, he condemned all that was narrow-minded, obscurantist, mean and debasing in Hinduism As a great political leader, Gandhiji made use of his power to eradicate all kinds of economic and social evils Modern India is thankful to him for his efforts to eradicate untouchability

5 Great Ideals Gandhiji gave the world in general and India in particular great political ideals The concept of *Rama Raj*, an ideal state, in which there would be righteousness, justice, equality and happiness was conceived by Gandhiji The makers of the Constitution of India were inspired by his ideals, and the Directive Principles of State Policy and the Fundamental Rights breathe the Gandhian spirit

Drawbacks The following are the drawbacks of Gandhian thought

1 No Clarity A very clear image of Gandhian political thought does not emerge It is a loose bundle of principles and ideas For instance, it is not clearly made out whether the state should be there or not While at one point it is mentioned that there should be a stateless democracy, at another it is stated that the state should govern non-violently Stateless democracy is not possible, because even in a democracy there should be representatives to serve the people and exercise power in the name of the people As regards governing non-violenty, it hardly needs to be mentioned that it is impractical, and the idea has to be discarded

2 Gandhian Economy not Practical Gandhian economy will not be successful in modern times While the idea of decen

tralised production has to be appreciated, heavy machinery as such in the age of machines cannot be given up A country cannot isolate itself completely and depend on village communities only, when the rest of the world is heavily industrialized The realities of the modern world cannot be ignored A country like India needs decentralised production, and rural industries and handicrafts should be encouraged, but at the same time, it is necessary to keep pace with other countries, and build heavy machines A country depending on Gandhian ideas only will be left far behind the other countries of the world

3 **Limitations of Ahimsa** The principle of *ahimsa* has its own limitations in a world of realities The concept of *ahimsa* is no doubt invaluable and cannot be criticised, in fact in the conduct of the individual, in national affairs and international matters, *ahimsa* would do much good But it has to be remembered that human beings are not saints, and it will not be possible for the state to be non-violent The weapon of non-violence with all its merits is bound to fail in a world in which few people are good and honest, and everywhere brute force is asserting itself In fact, misplaced *ahimsa* may cause *himsa* When brute force is not restrained by effective force, and a government waits till a change of heart takes place, the results can very well be imagined Anti-social elements, who never understand moral and religious values are bound to take undue advantage of a government's leniency or its sympathetic attitude Calling upon those who run the government to give up violence is tantamount to asking them to abdicate their duty

4 **Satyagraha a Difficult Weapon** Satyagraha is not an easy weapon, which anyone is competent to wield It is morally an excellent weapon, but it is doubtful whether even one in a million is fully qualified to make use of it The whole world watched with interest the frail figure of Mahatma Gandhi waging a non-violent struggle, against the most powerful empire in history Gandhiji's soul force had magic in it Under the Mahatma's leadership civil disobedience, no tax campaign, *hartal*, boycott, picketing and fasting became extraordinary weapons before which the powerful British authorities were puzzled and helpless Unfortunately, very few of Gandhiji's followers were fit to wield these weapons These were quite meaningful in Gandhiji's hands, but when wielded by men of common clay, they lost their true igni

ficance Gandhian weapons like striking and fasting are being employed even now to realise petty ends

5 **Impractical Ideals** Gandhism is full of impractical ideals The principle of paying taxes through labour is good theoretically, but in modern times, it will not be practicable Similarly, the idea of property as trust if followed by all would bring happiness everywhere, but here again, it has to be mentioned that it is too early to expect a class of rich men to be as unselfish and detached as ascetics Had the concept of property as trust been followed by half the number of the rich people in the world, and had the rich been enlightened and altruistic, communists would not have been able to sell their "wares" as they do at present The fact is the rich will never, normally speaking, regard property as trust and as an instrument of service Generally, it is to them a source of comfort, ego and power

6 **Religion and Politics** The mixture of religion and politics can also be criticised Gandhiji could understand the true meaning of religion, and when he mixed it with politics, he elevated and ennobled politics But ordinary men, who are bound to have religious bias to a very small extent at least will do harm to politics by giving it a religious tinge Gandhism will give rulers an excuse to show their narrowmindedness, communalism and fanaticism People, whose religion is other than Hinduism may be unwilling to accept Gandhian ideas bearing the stamp of Hinduism

Conclusion In levelling this criticism against Gandhian thought, no effort is made to disparage or belittle Gandhiji and the values for which he lived and became a martyr It is easy for one living in the post-independence era in India to cavil at Gandhian thought and methods Few thinkers in the world have shown a perfect harmony between profession and practice, and few have displayed the courage to stand by spiritual values in the teeth of great obstacles as Gandhiji did Gandhiji was made of uncommon stuff, which the world may see but once in a millennium In Gandhiji, we find a unique combination of the saint and the politician, a combination which Indians could see not in thought only but in actual action too

Gandhiji's numerous small and big campaigns of non-violence, his simple and austere way of life, his realistic political, social and economic programmes, his love for human dignity, liberty

and equality, his faith in human nature and its goodness, his passion for truth, his love for the poor and his worship of *Daridranarayan*, his dislike for ostentation, cant and hypocrisy, and his extraordinary courage to do the right thing, when many ridiculed him, are eloquent proofs to bring out Gandhiji's greatness as a man of action, as a political thinker, as a nationalist, and as an internationalist Gandhiji's comment on *Daridranarayan* is worth-nothing "Daridranarayan is one of the millions of names by which humanity knows God who is unnameable and unfathomable by human understanding and it means God of the poor, God appearing in the hearts of the poor"[1]

II Sarvodaya

A Prospects of Gandhism

Difficulties of Practising Gandhian Philosophy Gandhian ideas are difficult to be put into practice, unless people are of extraordinary moral capacity and integrity Gandhian philosophy really speaking did not strike deep roots even in India, and most of Gandhiji s followers paid only lip sympathy to it, not owing to Gandhiji's failure or the weakness of his thought, but owing to the drawbacks and weaknesses in ordinary human beings Some times even his closest followers including Pandit Nehru could not understand the meaning of non-violence fully, and the subtle distinction between the non-violence of the brave man and the non-violence of the man following expediency was beyond the comprehension of most of the people Even though Gandhiji wanted the freedom struggle to be absolutely non-violent, on several occasions violence did break out

Gandhiji Murdered in Body and Spirit The soil in India was not fertile enough for Gandhian seeds to sprout The riots that broke out in the Punjab, Bengal and Bihar not to speak of other areas in 1946 and 1947 clearly showed that Indians were not prepared to follow the philosophy of love and non-violence as given by the Mahatma In 1948 Gandhiji was assassinated, worse than this is the destruction of Gandhiji's spirit of service and sacrifice by the very men, who eloquently pay lip sympathy to Gandhism It is distressing to note that in Gandhiji s land itself there is little scope for Gandhism in the real sense as evident from the terrific lust for power, graft and greed, bribery and corruption and vulgar ostentation of wealth Very often Congress

1 *India of My Dreams* (1959) p 22

leaders and ministers invoke Gandhiji's name, but it is a depressing fact that most of them go contrary to Gandhian principles On the eve and after the dawn of independence, bloodshed made Gandhiji feel sorry for his country In 1969, when Gandhiji's birth centenary was being celebrated, the nation was put to shame by communal violence, which erupted in Ahmedabad, where the Mahatma had lived for a long time in his Sabarmati Ashram Khan Abdul Ghaffar Khan, the Frontier Gandhi, who visited India in the Gandhi Centenary year lamented over the lack of true Gandhian spirit He said that Indians had forgotten Gandhiji, and had violated true Gandhian principles Had Gandhiji been alive today, he would have hung his head in shame

In the midst of all this, it is encouraging to see a few great disciples of Mahatma Gandhi trying to go along the Gandhian path to bring about a social revolution The *Sarvodaya* workers are making efforts to keep alive Gandhiji's spirit, in fact the *Sarvodaya* movement can be regarded as the projection of Gandhiji's movement

B Meaning and Growth of Sarvodaya

Ideal Social Order Promoting Welfare of All When Mahatma Gandhi gave the Gujarati version of Ruskin's *Unto This Last*, he used the title *Sarvodaya* for the work The gist of *Unto This Last* is " (1) That the good of the individual is contained in the good of all (2) That a lawyer's work has the same value as the barber's inasmuch as all have the same right of earning their livelihood from their work (3) That a life of labour i e of the tiller of the soil and the handicraftsman is the life worth living "[1] *Sarvodaya* means the *welfare of all* and not the welfare of only one class or section of society

It is necessary here to draw the difference between *Sarvodaya* on the one side and *isms* like communism, guild socialism and syndicalism on the other While the former stands for the progress and welfare of all, the latter speaks of the welfare of a particular class of society Communism hates the capitalist and the *bourgeoisie* and fights for the good of the *proletariat* with the help of all kinds of tactics violent and non-violent, fair and foul On the other hand, *Sarvodaya* wants the welfare of all the rich, the middle class and the poor *Sarvodaya* goes further than utilitarianism in promoting the happiness of people While utilitarianism wants

1 M K Gandhi *Sarvodaya* (1958) p 3

the *greatest happiness of the greatest number, Sarvodaya* desires to promote the *happiness of all* Not only the poor, but the rich also are in need of help the former need material help and the latter require spiritual uplift *Sarvodaya* brings about the moral uplift of the rich who are made to give up their acquisitive attitude, and the material uplift of the poor, who get advantage of a bloodless social and economic revolution Bharatan Kumarappa says "*Sarvodaya* as the welfare of all, represents the ideal social order according to Gandhiji Its basis is all embracing love So it has room in it for all without exception—prince and peasant Hindu and Muslim, touchable and untouchable, white and black, saint and sinner No individual or group is to be suppressed, exploited or liquidated All are to be equally members of this social order, all sharing in the produce of their labour, the strong protecting the weak and functioning as trustees for the weak and each promoting the welfare of all "[1]

Sarvodaya Society Mahatma Gandhi was aware of the fact that most of his *political* followers were not deeply interested in his *Sarvodaya* and naturally he put faith in his more intimate and disciplined followers to bring about a social revolution through *Sarvodaya* Unfortunately, a conference planned to be held at Wardha around February, 1948 could not meet owing to Gandhiji s assassination on January 30, 1948 On December 22 and 23, 1949, a Sarvodaya Economic Conference under the Presidentship of Kaka Kalelkar drew up a plan to put into practice Gandhiji's ideas and bring about social, moral and economic up lift According to the plan, a *Sarvodaya Society* was to be establish ed The chances of disseminating *Sarvodaya* ideas and doing actual field work seemed bleak, when emphasis was being laid on economic planning in which giant machines got an important place

The *Sarvodaya* ideal which was in the doldrums was taken up by Acharya Vinoba Bhave, a great and true disciple of Mahatma Gandhi The great *Acharya* gave his heart and soul to make the Sarvodaya movement active everywhere

C The Ideals of Sarvodaya

The following are the basic ideals of the Sarvodaya movement

1 A Stateless Society Acharya Vinoba Bhave the chief exponent of *Sarvodaya* speaks in terms of establishing a society,

1 Ibid p iii

in which people are free from exploitation and oppression *Sarvodaya* is against the state in its present form, even if it tries to promote social welfare, as it is based on methods of coercion In a really good state, there is no difference between the rulers and the ruled, for both are "merged in the individual' Jayaprakash Narain and other advocates of *Sarvodaya* criticise the concept of the welfare state as it is normally understood, for it increases the functions and powers of the government The progressive increase in the powers of the government everywhere in the world testifies to the truth of the criticism The ideal of *Sarvodaya* is a stateless society free from every type of authority, though it will take some time for its establishment Till that stage is reached, people will have some form of government

2 Against Representative Democracy and Party System The *Sarvodayists* are opposed to democracy as a form of government as prevailing in countries like Britain, the USA and India, as it is based on the party system The party system is an evil, as it breaks people into groups, compels them to conspire against one another, and gives rise to the tyranny of the majority Representative democracy, as it prevails now, is not truly representative, only the majority is represented and the minority which is sometimes substantial is left out For instance, it is possible that a government may represent the interests of only 51 per cent of the people to the exclusion of 49 per cent

The rule of the majority party is the parent of several evils

(1) Decisions are not taken on the merits of a case but on party considerations

(2) People are goaded to form groups pitted against one another

(3) The scramble for power spells ruin on the people as a whole

(4) There is bound to be bribery and corruption on a vast scale and money will enable people to realise their selfish ends through the majority party

(5) People who are in the minority and those who are poor suffer

(6) Power gets highly centralised, and all the evils of bureaucracy manifest themselves

(7) The cost of the administrative services is very high

3 Loose Federation of Autonomous Villages In the *Sarvodaya* society, there will be a loose federation of autonomous villages,

in each of which there is almost self-sufficiency The features of the *Sarvodaya* society can be summarised

(1) There is no centralised authority, and there is political and economic autonomy in the villages

(2) Politics will not be the instrument of power, but an agency of service and *raj-niti* will yield place to *lok-niti*

(3) All people will be imbued with the spirit of love fraternity truth, non-violence and self-sacrifice Society will be functioning on the basis of non-violence

(4) There will be no party system and majority rule and society will be free from the evil of the tyranny of the majority

(5) The *Sarvodaya* society is socialist in the true sense of the term All callings will have the same moral, social and economic values The individual s personality has the fullest scope for development

(6) The *Sarvodaya* society is based on equality and liberty There is no room in it for unwholesome competition, exploitation and class-hatred

Sarvodaya stands for the progress of all All individuals should do physical labour and follow the ideal of non-possession Then it will be possible to realise the goal of "From each according to his work and to each according to his needs" There will be no private property, the instrument of exploitation and the source of social distinctions and hatred Similarly the profit motive will disappear and rent and interest too will go At present the motive of production is profit to the producer, but in the *Sarvodaya* society production is meant for consumption, and all will derive benefits The desire to grab and get on as we find today will yield place to concern for others and mutual sharing Land and other types of property will exist for the good of one and all

D The Bhoodan Movement

Donating Land and Service Acharya Vinoba Bhave is quite serious about establishing a *Sarvodaya* society, and he has actually shown through action that he is not a mere arm-chair philosopher sitting at home writing about the doctrines of *Sarvodaya* When he launched his *Bhoodan* Movement, he made the beginning of a great revolution Vinobaji says "People should accept the principle that all land belongs to God If all land is socially owned, the present day discontent would disappear and an era of love and co-operation will take its place What I want people to do is, first, to give

away some of their land Secondly, they should engage themselves in the service of others "[1]

Sarvodaya Sammelan and Bhoodan In April 1951 a *Sarvodaya Sammelan* was held at Shivarampalli in Andhra Pradesh, and Acharaya Viroba Bhave was staying at his camp at Panchampalli in Telengana, where many Harijans and others assembled and related to the great Acharya the tale of their woes owing to landlessness This meeting became a landmark in the history of the *Sarvodaya* Movement, whose great beginning was made with *bhoodan* or land-gift When Acharya Bhave was told that the need of the poverty-stricken landless people, who had gathered there was eighty acres, the great leader asked the people there whether there was anyone who could give the required land The *Sarvodaya* leader thus threw a moral challenge, which got a response from Shri Ramchandra Reddy of Panchampalli, who donated one hundred acres Thus the seed of *bhoodan* was sown on April 18, 1951 This *bhoodan* was followed by a gift of sixty acres in another village Vinobaji's appeal did not go in vain, and he was convinced that it would be po sible for him to bring about a revolution in conscience, which would lead to an economic revolution in a non-violent manner In Telengana, supposed to be the stronghold of communists, the Acharya was able to collect 12,201 acres of land in the course of 51 days He fixed the ambitious target of 50 million acres

Basic Ideas The following are the basic ideas of *Bhoodan*

1 **Trusteeship** The *Bhoodan* Movement upholds the principle of trusteeship of poverty All land belongs to God, and human beings are to hold it in trust

2 **Dictates of Justice and Morality** Dictates of justice and morality demand *Bhoodan* Land is to be donated not as an act of charity *Bhoodan* is to be made because justice demands it The Bhoodan leader believes that there is much good will in society, and it will be possible to carry conviction that land-gift has to be given as a moral and just act

3 **New Outlook** *Bhoodan* will change the old social and economic concepts, and will enable people to build a new outlook *Bhoodan* will solve the question of the ultimate ownership of land Land cannot be private property meant for exploiting others, it is to be held in trust for the good of all *Bhoodan* will free man from the sense of attachment, possession and pride and will

1 *Bhoodan Yajna* (1957) p 19

bring about a change of heart A man has the moral right only to retain property he really needs, and he has to return to the community what he does not need Vinobaji said "We are going to distribute land to lakhs of people who will need other kinds of help too before they can stand on their legs Not only that, I also want to raise an army of workers "[1]

Bhoodan and Sampattidan through Non-Violence Quite unlike the methods of syndicalists, communists and anarchists, those of Acharya Vinoba Bhave depend entirely on non-violence "He has no place in the government or any other secular organization he is what Hindus call an *acharya* (preceptor) Only a land with holy cities, sacred rivers and thin margins between want and plenty could have produced frail (5 ft 4 ins 86 lbs) ascetic Vinoba Bhave In two years he has become such a power in India that only Prime Minister Jawaharlal Nehru is better known to the Indian masses "[2]

Vinobaji wants a revolution to take place not through coercion and destruction, but through a change of heart

The *Bhoodan* movement is a unique non-violent revolution The Acharya collects land from all, whether rich or poor, as he wants to get rid of the sense of possession and attachment which is to be found even among the poor as among the rich There have been cases to show that the Bhoodan leader actually collected even small strips of land from the poor and the needy In one case, he collected one acre of land from an old lady who had six acres and five sons According to Vinobaji's argument, he is to be treated as the sixth son In another case, he accepted the donation of two cents of land from an old man having only two acres of land on which depended a very large family

In the beginning Vinobaji did not accept cash, as his emphasis was on *Bhoodan Yajna* only Money he believed is the source of many social problems and is the cause of India's degradation But gradually he felt that money too was needed for the purchase of seeds manure and cattle Thus the leader changed his attitude in the light of experience and did not maintain a dogmatic attitude The new attitude gave rise to the concept of *sampattidan* or gift of wealth 'Along with the *Bhoodan* work, I have recently launched on another programme—the *Sampattidan Yajna* It is necessary for the fulfilment of the *Bhoodan Yajna* "[3]

1 Ibid p 70
2 Robert Trumbull in *Bhoodan as seen by the West* (1957) p 1
3 Vinoba Bhave *Bhoodan Yajna* (1957) p 100

Bhoodan, Gramdan and Gramraj Vinobaji wants to have *Bhoodan* first and at the next stage *Gramdan*, which means the gift of an entire village In the beginning, people will donate only part of their land but ultimately they will give away their entire land This will make *Gramdan* a reality and it will provide the basis for *Gramraj* When *Gramdan* is made no individual will have the ownership of land ownership will be vested in the community 'Though the *Gramdan* movement began as far back as 1952 with rather unexpected and spontaneous action of the villagers of Mangroth in U P it was only during and after Vinobaji's foot march through Orissa that the movement assumed mass proportions The first *Gramdan* in Orissa was obtained in Manpur, in the Cuttack District on 30th January 1953 and shortly afterwards the movement caught on in the Korapur District where 26 *Gramdans* were received by the time Vinobaji entered Orissa on the 26th January 1955"[1] Vinobaji's *Gramraj* is like Mahatma Gandhi's *Panchayat Raj*

Features of Gramraj Let us briefly examine the basic features of *Gamraj*

1 **Cooperation and Family Feeling in Gramraj** Just as the members of a family work for the good of the whole family, people in the *Gramraj* will work for the welfare of the entire community Every farmer, for instance, will work on his piece of land and others will help him whenever required. (This however should not be misconstrued as collective or cooperative farming) The community in the *Gramraj* will be happy as there will be no rivalry between one individual and another, and one social group and another There will be no exploitation of man by man. There will be no sense of possession and attachment and no one will speak emphatically in terms of 'mine and thine'.

The family feeling will pervade through the entire community and all will go through thick and thin together [illegible] at present the individual lives for himself and makes use of his talents for his own good, in the [illegible] everyone will [illegible] ability for the common welfare [illegible] individual surrenders his wealth, he [illegible] the contrary the individual [illegible] less revolution and, as a [illegible] he gets security "Each [illegible] the community will take care of [illegible] to the [illegible]

1 M Choudhari *The* [illegible] p 1

2 *Decentralisation and Non-violence* In *Gramraj*, there will be no violence and coercion The nature of the *Gramraj* is thus quite different from that of the state as we have it now There is no centralisation of power, there will be decentralisation through villages, each of which will be 'a complete and a thorough state in miniature" In each village, there will be a General Village Council, to which every family will send a member "All the adult residents of Mangroth, the first *Gramdan* Village were constituted into a society named the *Sarvodaya Mandal* This society, with its executive committee of fifteen was to be responsible for the conduct of all the affairs of the village This body was also to hold the lands of the village in trust and make all periodical allotments This has formed the arch-type for the organisational structure of every Gramdan community"[1]

3 **No Exploitation and Party Politics** *Gramraj* will provide no scope for exploitation of the weak by the strong There will be collaboration and co-operation and competition will be eliminated Cities cannot take undue advantage of the weakness of villages as at present They will have to adjust themselves in the new pattern of society In *Gramraj*, there will be no political parties Party politics *(raj-nity)* will have no place in *Gramraj*, which will have politics meant for people's service *(lok-niti)*

4 **Freedom, Fellowship and Equality** People will have freedom, fellowship and equality, as they will be free from the tyranny of parties or from the oppression of landlords and capitalists In the self-governing village communities, people will be sovereign People will be free from class and caste prejudices *Gramraj* will not favour and particular religion or caste People will have religious freedom

The world has to be thankful to the champions of *Sarvodaya* for marking out great ideals towards which the world can usefully move

E Evaluation of Sarvodaya

Let us briefly discuss the merits and defects of Sarvodaya

Merits The following are the merits of Sarvodaya

1 **Agency of Service for Common Welfare** *Sarvodaya* sets its face squarely against the politics of power and exploitation The state is to be an agency of service, and not an agency of

1 Ibid p 20

power Gramraj is based on non-violence Sarvodaya stands for the good of all and not for the good of any particular individual or class Bhoodan at the early stage Gramdan at a later stage, and Sampattidan will bring about a change of heart The rich and the poor will give up their idea of attachment to private property, and will strive to work for the good of all

2 High Ideals *Sarvodaya* has high ideals which are to be realised through peaceful and non-violent methods, entirely free from bitterness, fanaticism and hatred *Sarvodaya* lays great emphasis on moral and spiritual values [1]

3 New Social and Economic Values *Sarvodaya* seeks to create new social and economic values The concept of possession yields place to concept of trusteeship People will work for the good of all, and family feeling will animate the entire community There will be the fullest scope for freedom, fellowship and equality

Defects The following are the defects of *Sarvodaya*

1 Not Practicable *Sarvodaya* ideals are not practicable Though the ideals of *Sarvodaya* are noble, and nobody can find fault with them, in the actual world, they will be found wanting, and it will be almost impossible to establish a society strictly on the basis of the great principles upheld by Mahatma Gandhi and others Human nature as we see at present, is unable to give up selfishness and sense of attachment, and it will not be possible to have a state based on non-violence and complete co-operation We have not yet reached a stage when an absolutely non-violent revolution can succeed without the aid of legislation Society, as we see now, will not come round and embrace the new social and economic values, unless coercion is used The world is yet to meet a society, in which all people think that they belong to the same family

Sarvodaya doctrines are soaring and it is doubtful whether they can rest on the earth The poor record of *Panchayati Raj* in India bears testimony to the backward condition in which people are People in most of the villages are keen neither on moral values nor on material benefits In such a state of affairs, *Sarvodaya* ideas cannot strike roots

1 Refer to the chapters on Communism Syndicalism and Anarchism and contrast the methods of these schools and those of Gandhism and Sarvodaya

2 Sarvodaya not Possible in One Country Only In the highly competitive world, one country alone cannot succeed in having *Gramraj*, when the states in the rest of the world are based on principles not consistent with those of *Sarvodaya* Unless all states in the world accept the *Sarvodaya* idea the chances of having it in a particular country like India are bleak

3 Change of Heart Difficult It is difficult to bring about a change of heart in the human beings who are given to selfishness Men like Mahatma Gandhi and Acharya Vinoba Bhave can succeed in bringing about a chance of heart in men, who are directly under their influence but men of common clay can neither be selfless themselves nor make others selfless It is not difficult to find men endowed with great intellectual power and administrative and other types of ability, but it is extremely difficult to find absolutely selfless men, who really care for *Sarvodaya*, and can inspire adequate confidence in others

4 Donation of Useless Land While it is not proper to cast aspersions on and impute motives to the noble deeds of donors of land in response to the Bhoodan call, it cannot be denied that there have been cases when land of questionable value was donated

It is true that *Sarvodaya* is bound to make people happy, and there will be a veritable heaven on earth with freedom, fellowship and equality and without coercion and exploitation But what are the concrete and realistic methods to realise a *Sarvodaya* society ? This question is difficult to be answered unless one ignores realities

MAIN POINTS

1 Gandhian Ideas 1 No well-knit political theory Application of eternal principles 2 Influence of Ruskin Thoreau and Tolstoy 3 State a soulless machine 4 Federation of satyagrahi village communities to be set up 5 Decentralisation of power bread labour and classless society 6 *Decentralised production* and swadeshi consumption 7 Great role of ahimsa 8 Property as trust 9 Good end and good means 10 Sympathy for criminals cheap justice and labour tax 11 Combination of healthy nationalism and internationalism 12 Clean politic Influence of religion

2 Evaluation Merits-1 Great influence as votary of truth and nonviolence 2 Noble political ideas 3 Against exploitation 4 Broadminded ideas and great ideals

Demerits-1 No systematic theory 2 Practical difficulties in the way of ahimsa 3 Gandhian economy not practical 4 Satyagraha a difficult weapon 5 Mixture of religion and politics

3 **Meaning and Basic Ideas of Sarvodaya** 1 Sarvodaya is the title of Gandhiji s Gujarati version of Ruskin s book *Unto This Last* An ideal social order promoting welfare of all 2 Against representative democracy and party system 3 Stateless society to be set up 4 Loose federation of Autonomous village communities

4 **Bhoodan Movement** 1 Donation of land 2 Trusteeship idea 3 Need to give justice and honour moral principles 4 New social outlook Bhoodan and sampattidan Gramdan and Gramraj Cooperation and family feeling in *Gramraj Decentralisation and non-violence No exploitation and party politics* Freedom fellowship and equality

5 **Evaluation of Sarvodaya** Merits–1 High ideals 2 Agency of service for common welfare 3 New social and economic values Defects–1 Not practicable 2 Change of heart difficult 3 Donation of useless land in Bhoodan. 4 Sarvodaya not possible in one country only

Summary Theories of the Sphere of State Activity

No Name of the Theory or Ism	Authors of the Theory	Basic Ideas of the Theory	Remarks
1 Idealist Absolute or Metaphysical Theory	Kant and Hegel in Germany Green and Bosanquet in England	State an ethical institution individual completely indebted to the state for his freedom and personality development	Gives too much power to the state extreme individualism harmful to individual freedom
2 Individualistic Theory or *Laissez faire*	J S Mill and Herbert Spencer	State should interfere as little as possible individual freedom soul of the theory	Gives too little power to the state was good for some time but was finally rejected
3 Utilitarianism	Jeremy Bentham and J S Mill	Criterion of state action is utility state should promote the greatest happiness of the greatest number	Utilitarianism responsible for many great reforms in England
4 Democratic Socialism	Robert Owen Fourier Simon Tawney Cole Norman Thomas and others	Property and all important means of production to be instruments of social welfare socialism to be introduced through a democratic and evolutionary process	Democratic socialism in England owing to her democratic traditions India has accepted the goal of a socialistic pattern of society India s democratic socialism
5 Collectivism or State Socialism	Bernstein Juares Branting and others	Collectivism is against individualism means of production under state ownership democratic methods to be used to establish state socialism	Collectivist trend found in many countries Sometimes it is used as a cover for totalitarianism
6 Fabianism	G B Shaw Graham Wallas Sidney Webb and others	Welfare of society to be realised through slow evolutionary and democratic methods	Fabianism exerted profound influence in England and many eminent men became Fabians

7 Syndicalism or Anarcho-Syndicalism	Pelloutier and Sorel	A revolutionary labour movement against bourgeois or capitalist state strike and sabotage to be used syndicalist groups to control local industries	Began in France and spread in other countries was ruthlessly suppressed in several countries in France the old syndicalism was discredited and new syndicalism rose movement is now dead
8 Guild Socialism	Penty Hobson Orage and Cole	Decentralisation through guilds partnership between producers and state functional *representation favoured*	Guild socialism not practically feasible owing to its serious drawbacks
9 Communism or revolutionary Socialism	Marx and Engels Lenin and Stalin Krushchev and Mao	Proletariat socialism revolutionary based on ideas of class war dialectical materialism surplus value concentration of capital and dictatorship of the proletariat	Great success in Russia and China
10 Anarchism	Godwin Proudhon Thoreau Tolstoy Bakunin and Kropotkin	All forms of political authority should be abolished private property and religion are evils state should be uprooted	Anarchism not practicable
11 Fascism	Gentile Prez olini and Mussolini	Single party dictatorship nationalist racialist militarist and imperialist Italy a corporate state Mussolini's Italy became authoritarian and totalitarian	Fascism succeeded in Italy under Mussolini for some time Mussolini overthrown during World War II Italy s sufferings

No	Name of the Theory or Ism	Authors of the Theory	Basic Ideas of the Theory	Remarks
12	Na ism	Schmitt Drexler Rosenberg and Hitler	State deified state authoritarian and totalitarian theory of Nordic superiority and antisemiti m aggressive nationalism imperialism and war One party state	Na ism was reaction against Germany s humiliation after World War I gave rise to World War II and brought about great sorrow and suffering
13	Gandhism	Mahatma Gandhi	Gandhiji was against the term Gandhism satyagrahi village communities decentralised power and production bread-labour non-violence and truth property as trust	Gandhism is very lofty and noble but very difficult to be realised
14	Sarvodaya	Mahatma Gandhi and Acharya Vinoba Bhave	Welfare of all a stateless society autonomous villages Bhoodan Gramdan and Sampattidan	Sarvodaya society very difficult to be established in actual practice

Section VIII
INTERNATIONAL LAW WAR AND PEACE

CHAPTER 36 INTERNATIONAL LAW

A Relations between States

No Isolation Man as a social animal cannot live in isolation His very nature and his numerous needs make it essential for him to live as a number of society In the same way, no state can afford to exis in its own shell of complete isolation This is particularly so in modern times in which science has killed time and distance For the sake of diplomacy industry, trade and commerce, it becomes necessary for one state to be on friendly relations with other states

No International Authority to Coerce Sometimes, owing to various reasons, relations between two states may get strained or a state may try to encroach on the territory of its neighbour or a state may try to interfere in the affairs of other states Then the question arises as to how a particular situation is to be dealt with In a state, relations between two individuals are regulated by written and unwritten law, and when an individual breaks law, he is punished by the state according to the law While the relations between two per ons in a state are regulated by law, the relations between states are not subject to any law, which has the backing of an international coercive authority which can punish any erring state Every state is sovereign internally and externally In the external sphere, a state refuses to take orders from other states

When all states in the world, whether big or small, guard their sovereignty most jealously, it becomes difficult to regulate relations among them In modern times, the analytical school of jurists upheld sovereignty in absolute terms But it was being increasingly realised that jurists like Bentham and Austin did not take into consideration the real significance of u ages and customs in the international sphere

Need of International Principles The world has realised that there is a real community of states as there is a community of individuals, and the community of states needs a code of laws for the guidance of all It is refreshing to note that gradually the old and jealous attitude of sovereign states is changing with the recognition of the principles that no state can live by itself and political, social and economic inter-dependence underlines the importance of international law The needs of the changing world have dictated the formulation of a definite set of principles to guide the conduct of states in international relations In the course of centuries, experience enabled the world to evolve certain usages, customs, and principles to regulate international relations In modern times, the world has got accustomed to talk in terms of international law Conflicting claims between states regarding various matters are bound to rise and to settle these international law is necessary With the increasing use of science for destructive purposes, there arose a greater urgency of international law in the twentieth century than in the earlier centuries

B Definition and Meaning of International Law

Evolution of International Law The rules and principles recognised and observed by states in their relations with one an other make international law International law is not the product of the deliberations and discussions of a world legislature or the command of super-state (which does not exist) it is the product of an evolutionary process Several factors enter into this evolu tionary process viz political, social and economic inter-dependence, the desire for amicable relations, the need to avert war and promote international goodwill and understanding and the recognition of a reality that no state however rich and powerful can live in complete isolation

Rules for Civilised States in Mutual Dealings According to Lawrence, "the rules which determine the conduct of the general body of civilised states in their mutual dealings" constitute

international law E M Sait points out "Inter-state relations, like primitive inter-family relations, are regulated by custom What we call international law-the law between states or nations consists in the main of customary rules, and these rules can be ascertained only by observing the behaviour of states as their official acts, reveal it"[1] International law is defined as a system of jurisprudence consisting of general principles of right equity and humanitarianism founded upon established customs and acts of states and upon international agreements not inconsistent with standards of justice which Christian and civilised states recognise as obligatory in their relations and dealings with each other as well as with the citizens and subjects of each"[2]

International Law not like State Law Certain important observations can be made regarding international law

(1) No Backing of Sovereignty International law cannot be put on a par with the law of the state While the law of the state has the backing of the entire force of the state and law itself is the vehicle of sovereignty, inter-national law does not have any such backing

(2) States not Subject to Coercive Authority The individual in a state is punished when he violates law In this case, the state acts through its judiciary and executive in penalising the person who is guilty of violation On the other hand, when a state violates law which regulates international relations, there is no international organ which can act with such full authority as the judiciary in a state

Sanctions of Expediency, Good Faith and Force What are the sanctions of international law ? F L Schuman gives an analysis of sanctions "The sanctions of international law may be classified in order of their importance, as (1) habit, (2) expediency, (3) good faith and (4) organised force"[3] The League of Nations and the United Nations Organisation do not have the power to coerce and punish an erring nation in the same way in which a state has over its subjects States like Italy (aggression on Ethiopia 1931-35) and Japan (aggression on China 1934-36) could not be punished by the League of Nations, though they committed aggression openly In August 1968, the Soviet Union Committed aggression on Czechoslovakia with impunity

1 Political Institutions A Preface (1938) p 255
2 A V W Thomas Communism versus International Law (1953) p 3
3 International Politics (1941) p 103

legal basis, and there is no coercive power behind it as in a state Austin and others assert that usages and customs recognised by states can be called international principles of morality, but not law Critics of 'international law' feel it proper to call it international morality or to classify it as a branch of ethics, as it lacks the features of law as found in a state Some writers desire to regard it as a branch of jurisprudence Lord Coleridge in England stated in connection with a case in 1876 'Law implies a law-giver, and a tribunal capable of enforcing it and coercing its transgressors But there is no common law-giver to sovereign states and no tribunal has the power to bind them by decree or coerce them if they transgress" Therefore international law which lacks a legal basis and coercive power behind it cannot be regarded as law in the real sense of the term According to E M Sait, international law is primitive law, and it cannot be put on a level with municipal law International law 'consists mainly of custom which comes into existence as states in their mutual relations recognize certain habitual modes of behaviour as binding When we contrast it with municipal law, the law of the sovereign state, we realise how vague its rules are—how difficult indeed the task of merely proving their existence'[1]

International Law is Law Writers who regard international law as law advance the following arguments

1 Significance of Longstanding International Principles Law need not always be the command of a determinate human superior Law has customs and usages as its basis in a state similarly international law is based on long-standing international principles and rules of conduct Critics of analytical jurists belonging to the historical and sociological schools argue in favour of regarding international law as real law They rely much on international customs conventions and usages "Whatever the basis of international law i e whether individual consent, common consent, or common conviction the weight of evidence substantiates the view that there are rules of conduct which states consider binding upon them'[2]

2 Mutually Agreed Rules of Coneuct The stand taken by Austin and other analytical jurists is dangerous and unrealistic, as there is adequate ground to regard international law as law

1 E M Sait *Political Institutions A Preface* (1938) p 279
2 E B Schul *Essentials of Government* (1961) p 500

Just as members of society mutually agreed once upon a time to organise themselves for law for their common good, the various states of the world do agree to respect certain rules of behaviour for states and are ready to be bound by them

3 **Validity of International Law not Lost by Violation** It is not correct to say that international law is not really law merely because some states do not feel that they should respect it They violate it, as it goes against their selfish interests Non-recognition and violation of international law do not remove the validity of international law, just as disrespect for and violation of state law by anti social elements do not make law and state courts meaning less State law is being violated every day all over the world in spite of the pre ence of a coercive power, yet it does not cease to be law In the case of international law there is no coercive power, but even then international law does not cease to be law

4 **Existence of International Community** Oppenheim de fines law as ' a body of rules of human conduct within a community, which by common consent of the community, shall be enforced by an external power " As regards international law, there can be, Oppenheim says, a true international community having customary rules of conduct Enforcement of international law is possible, when there is common consent in the international community Several proofs can be given to show that international law has assumed institutional expression The UNO can be cited as an excellent example The record of the United Nations Orga nisation has shown that there have been instances of "common consent" as testified by UNO action in localising the Korean War (1950) and the Congo Crisis (1963)

5 **State Law not Against International Law** States all over the world pass legislation whose spirit is in harmony with that of international law Mostly it can be taken for granted that states do not pass laws which clash with international law

International Law not on par with State Law It can be concluded that international law cannot be put on a par with the law of a state, though arguments can be advanced to show that even "common consent" regarding the enforcement of internatio nal law is possible Mac Iver strongly criticises the drawbacks in a system governed by international law " But this system has no insurance against the outbreak of war, which at once shatters it to fragments It is not stabilised by international law but depends

on the precarious continuance of peaceful relations betw
states "[1]

Factors Unfavourable to International Law Certain f
are clearly unfavourable to international law

(1) There is no international legislature functioning like a
legislature The UNO General Assembly cannot make laws fo
various states of the world

(2) There is no international executive functioning like a s
executive The Security Council of the UNO does not have
powers of a state executive like the cabinet in Britain or India

(3) There is no international judiciary whose verdicts bind a
the states of the world The International Court of Justice canno
be compared to a state court like the Supreme Court of India

(4) There may be 'common consent' in certain cases only,
but not in all cases So the problem of enforcement becomes real
"The doctrine of consent has been condemned in certain quarters
and most cogently by Prof Brierly of Oxford He considers it
'untrue in its assumptions and inadequate as an explanation'
Law he says is obligatory But how can we speak of a state being
obliged to do only what it consents to do?"

(5) The law of a state has to be obeyed by all without any
exception and all persons have to be the members of a particula
state whether they choose to do so or not This does not hold
good in the case of international law, as all states may not be
willing to be bound by international law, and it is possible for
unwilling states to keep out of international organisations like
the UNO

(6) Though it is true that the Declaration of Human Rights
by the UNO can be considered as a great beginning of framing
an international Bill of Rights and the verdicts of the International
Military Tribunal at Nuremberg indicate the making of international
criminal law it cannot be denied that these have their own limi
tations from which the law of a state does not suffer

It is however noteworthy that the International Military
Tribunal imposed its verdict as a court of law in a state does
' Twentytwo German Nazi leaders were charged individually with
the crimes of planning preparing initiating and waging wars of
aggression and other crimes After a trial which occupied four

1 The Web of Government (1959) p 342
2 Ibid p 343

hundered and three open sessions, the Tribunal found nineteen defendants guilty and acquitted three Of those found guilty twelve received the sentence of death by hanging"[1] The remarks made by the Tribunal when its legality was criticised is also of great significance in international relations The Tribunal declared "That international law imposes duties and liabilities upon individuals as well as upon states has long been recognised "[2]

D Sources of International Law

International law was evolved in the course of a long time from the following sources

1 **Roman Law** Ancient Rome built a mighty empire, in which lived peoples having different cultures, religions, languages and customs To govern all types of people spread over a large empire, Rome evolved the law known as *ius gentium*, when she found that *ius civile*, the civil law dealing with Roman citizens only was inadequate *Praetor Peregrinus*, a special type of magistrate who was called upon to settle cases in which persons other than Roman citizens also figured was able to evolve the *ius gentium* on the basis of justice equity and common sense Rome also evolved the *ius naturale* or natural law, which was superior to the *ius civile* and *ius gentium* Roman law was formed when the *ius civile*, *ius gentium* and *ius naturale* were blended The Romans supported the idea of equality of all citizens before the law, and this concept led to the principle of equality of sovereign states in the international field

2 **Municipal Law** Municipal law is another source of international law The municipal law of all states dealing with problems concerning tariffs, extradition, citizen hip and diplomatic services inevitably touches questions pertaining to the international sphere Hence, the seed of international law is found in municipal law Decisions given by the various state courts provide a rich source of international law

3 **Treaties** "All modern states have hundreds of treaties with other states dealing with an enormous variety of matters The texts of these treaties are usually published by the signatory parties in a national treaty series There is also available a large number of privately published compilations of treaty agreements, though the best single course of recent treaties is the League of Nations Treaty

1 J S Roucek and Others *Introduction to Political Science* (1954) p 632
2 Ibid p 633

Series"[1] Treaties, alliances, agreements and conventions made by various states form a rich source of international law Two or more states agree to respect certain principles of conduct in their relations and these are naturally of great importance as precedents, when other states desire to make conventions or pacts The principles underlying treaties gradually enter into the field of international law proper The importance of the Treaty of Westphalia (1648), the Treaty of Utrecht (1713), the Treaty of Paris (1763), the Treaty of Versailles (1783) and the treaties made after the two World Wars can hardly be overestimated as fertile sources of international law

In assessing treaties as sources of international law, their *limitations have to be noted Terms of treaties do not bind all* the states of the world In this respect, E M Sait criticises them "A true law-making treaty may scarcely be said to exist for, strictly speaking such a treaty must not only be concerned with the statement of legal rules, but also be signed and ratified, or else adhered to, by all members of the community of nations"[2]

4 Works of Eminent Jurists, Diplomats and Statesmen As the commentaries of outstanding jurists in a state are of immense significance to the growth of law in a state the works of great writers dealing with history, international relations, war and peace influence the evolution of international law Books of eminent jurists and erudite publicists with international reputation are consulted while writing down a system of actual rules of conduct meant for independent states *The Law of War and Peace* (1625) by a Dutchman Hugo Grotius, a great international authority is a source book of international law F L Schuman observes "These (international) rules were first systematically formulated and set down as principles of the *Law of Nations by Hugo Grotius at the beginning* of the seventeenth century Like many rules of law, however, they had been developing for many centuries before they were reduced to a written form Once put into writing and made the object of scientific study, they developed at a much more rapid rate than before"[3] Similarly the opinion expressed by eminent diplomats and statesmen in their books or letters is also an invaluable source of international law Though for some time the correspondence regarding international affairs between statesmen of different countries at the

1 F L Schuman *International Politics* (1941) p 110
2 [illegible] *A Preface* (1938) p 265
3 *International Politics* (1941) p 100

highest level is kept confidential, in course of time it gets published In estimating the value of works by writers, it must be remembered that they do not draw up rules which governments are bound to accept The observation made by E M Sait in this connection regarding Grotius is remarkable "The reputation of Grotius should rest, not upon the rules that he invented for the guidance of posterity, but upon the customary practice that he recorded He did not succeed in making law What he proposed—deductions from the dictate of right reason—could become law only by being acted on and accepted, and as Fenwick observes, 'governments in any case were not disposed to pay attention to the doctors of law' "[1]

5 **Judgements by International Tribunals** The judgements of international tribunals are given great importance by states all over the world, as these serve as precedents and become part and parcel of international law When two countries are on the verge of waging war on each other, to avert it, they may agree to refer their dispute to an international tribunal, a court of arbitration or an international conference

E Theories of International Law

Among the theories of the nature of international law, three are of significance viz (1) of the Naturalist School, (2) of the Positivist School, and (3) of the Grotian School

1 **Naturalist School Emphasizing Natural Law** The principles of the Naturalist School were expounded by Pufendorf, the father of the school and by Rutherford in the eighteenth century "Pufendorf taught that the law of nations was that part of the law of nature which dealt with the relations among states Its rules were discoverable by reasons from the tendency of actions to promote general welfare He expressly denied, however, that there was any positive or voluntary law of nations based upon general consent On this point he agreed with Hobbes rather than with Grotius "[2] According to this school the law of nature is the only basis of the law of nations or international law, and it does not consider customs and usages in the international sphere as the source of international law This school was supported by ancient Roman writers like Cicero and medieval thinkers like Thomas Aquinas

2 **Positivist School Emphasizing Consent** According to the Positivis School, whose leader was Richard Zouche (1590–

1 *Political Institutions A Preface* (1938) p 259

2 R G Gettell *History of Political Thought* (1924) p 234

1660) the main basis of international law is the consent of states The principles of this school were interpreted by Oppenheim In the opinion of Positivists, states are not subject to international law, and so there can be international law only *between* states, and this derives meaning only from the *consent* of states The rise of Positivist ideas was owing to the growth of the concept of legal sovereignty at the hands of Bodin Hobbes and Austin

3 **Via Media of Grotian School** The ideas of the Grotian School were expounded by Wolf (1679–1754) and Vattel (1714–67) This school followed a *via media* between the Naturalist School and the Positivist School It gave importance to consent and natural law According to its ideas as interpreted by Oppenheim, the law of nature is applicable not only to men individually, but also to men collectively as members of states National sovereignty cannot remain unchecked external limiting factors as found in the law of nature must act as restraints on the sovereignty of the state

In the twentieth century, the spirit of the Grotian School was revived, and its ideas were presented in a more rationalised manner The rise of humanist philosophers like Harold Laski and Bertrand Russell and the rapid development of international principles, conventions and organizations were favourable to the growth of international law as agreeing with the spirit of the Grotian School The importance of the Hague Conventions (1899 and 1907), the Covenant of the League of Nations (1919), the Charter of the United Nations Organisation (1945), the Geneva Convention (1949) and the principles of the *Panch Sheela* (1955) can hardly be overestimated

F Contents and Scope of International Law

War Peace and Neutrality In modern times the scope of international law has been greatly widened "During the fifty years from 1884–1914 over 250 multipartite conventions were adopted at over 19[illegible]0 international conferences During the twenty seven years from 1919–1946 over 700 multipartite agreements were concluded and during the same period 4834 international instruments of varying characters (protocols exchanges of notes etc) were registered with the League of Nations and published by it in 205 volumes "[1] It hardly needs mention that by custom and usage international law is applicable to states which are completely sovereign and independent All states whether big or

[1] J S Roucek and Others *Introduction to Political Science* (1954) p 676

small are supposed to be on a footing of perfect equality, though in actual practice it may not to be so

International law dealing with the relations between states can be studied in its following aspects

(1) law dealing with states in war time,
(2) law dealing with states in peace time, and
(3) law dealing with questions of neutrality

Law in times of peace deals with

(1) territorial limits of states,
(2) problems connected with coastal waters,
(3) responsibility of states towards its citizens abroad,
(4) questions of diplomacy, and
(5) equality of states

Law regarding war time deals with

(1) kinds of war,
(2) conduct of war on land, sea and air,
(3) rules of war, and
(4) private property in war time Law pertaining to neutrality regulates the relations between neutral states and belligerent states with reference to trade and commerce and other matters

G History of International Law

Three Periods According to Lawrence there are three periods in the growth of international relations (1) from the ancient time till the establishment of the Roman Empire (2) from the rise of the Roman Empire till the outbreak of the Protestant Reformation, and (3) from the beginning of the Reformation till 1970

1 No Understanding among States till Rise of Rome In ancient times, till the rise of Rome, there was practically no understanding among states as we see in modern times Though ambassadors from one country to another established contact between states in certain cases, diplomacy was very crude, and it was in no way like modern diplomacy As at present, efforts were not made to settle disputes between two neighbouring states in an amicable way Wars were started suddenly and conducted without any regard to any set of principles Though the Greeks made great progress in many fields, their parochial-mindedness, the product of the city-state civilization prevented them from drawing up any principles of inter-state relations For maritime trade, however, a code was evolved in Rhodes Greek philosophers like

Plato and Aristotle gave some dim ideas of international relations in their natural law, though they were also influenced by the city-state environment

2 **From Rise of Rome to the Protestant Reformation** The ideas pertaining to natural law were developed by the Stoic philosophers in Greece, whose thoughts had a profound effect on the minds of Roman thinkers like Cicero, Seneca and Marcus Aurelius In understanding the contribution made by Greek thinkers particularly, we should avoid the temptation to magnify the importance of the pronouncements of philosophers like Plato and Aristotle The Romans made use of their statesmanship for the development of *ius gentium*, a kind of law which regulated relations between Roman citizens and other people Before Rome became the mistress of a mighty empire, there was something like an international law, which was called *ius feciale* This law embraced certain principles of inter-state relations during war and peace However, the *ius feciale* having principles of war and peace cannot be compared to modern international law

When the Republic of Rome yielded place to the empire and practically Roman emperors exercised absolute authority, there was little scope for the development of international law as the relationship between Rome and the other European states was as between superior and inferior In the medieval and early modern times in Europe also till the outbreak of the Reformation states were not familiar with what we call international but with the idea of the Universal Empire and the Universal Church

3 **From the Reformation till Today** Ideas regarding international law were put on a systematic basis in the post-Reformation period After the outbreak of the Reformation, the picture of the whole of Europe changed with the rise of independent states The rise of nationalism gave a fillip to the formation of new states To regulate the relations between nation states it was necessary to have international law As stated already, the great Dutch writer Hugo Grotius gave the first modern book on international law viz *The Law of War and Peace* Grotius spoke in terms of sovereign and independent states

In the international sphere all states whether big or small, are on the same footing, and they deal with one another as equals This principle was accepted by the League of Nations and the United Nations Organisation

MAIN POINTS

1 **Meaning of International Law** Isolation not possible for states Evolution of international usages and customs regulating interstate relations Rules of civilised states in mutual relations Sanctions of expediency good faith and force Two types of international law–Public and Private

2 **Nature of IL** 1 Dualist view No authority to enforce international law 2 Monistic view No fundamental difference betwenn municipal law and international law 3 International law not law Longstanding international mutually agreed customs respected State law not against international law Existence of international community 4 International law not law All states sovereign No world state and government

3 **Sources of International Law** 1 Roman law 2 Municipal law 3 Treaties 4 Jurists 5 Judgements

4 **Theories of International Law** 1 Naturalist School emphasi es natural law 2 Positivist School emphasi es consent 3 Via media between the two by Grotian school

5 **Contents and Scope** Deals with war peace and neutrality

6 **History** Three periods of evolution 1 Till rise of Rome 2 From Rome to Reformation 3 Reformation onwards

CHAPTER 37

INTERNATIONAL RELATIONS, WAR AND PEACE

A The Threat of War

Anxiety of Survival of Humanity Never before in the history of the world human beings hungered so much for international peace and security as they do today History has recorded a large number of wars fought in the various parts of the world from time to time for different reasons But the record of the two World Wat was different from that of the earlier ones Even before the work could recover from the shocks of World War I (1914–18), World War II (1939–45) began World War II was a long nightmare, which came to an end only when Japan surrendered after the dropping of two atom bombs in August 1945 and the destruction of the two Japanese cities of Hiroshima and Nagasaki

The Big Powers of the world have perfected their instruments of destruction and death and it seems that World War III, if at all it breaks out may perhaps be the last war that human beings will wage The threat of the outbreak of a Third World War has made sober leaders in different countries realise the fact that there is an urgency of world peace if humanity is to survive Humanity can hope to survive only if the Big Powers of the world formulate a foreign policy based on justice and reason

While it is too much to expect the Big Powers to be completely just and altruistic in their motives in drawing up their foreign policy it can be expected that at least the fear of their own destruction, not to speak of the ruin of the rest of the world will knock commonsense into their foreign policy The retreat that Nikita Krushchev staged from Cuba in 1962 testifies to the fact that leaders like Krushchev know full well what World War III is likely to be, and hence they do not want to take a suicidal leap into war Premier Alexei Kosygin of Soviet Russia (who succeeded Krushchev in 1964) is also cautious, and he too wants to avoid taking any rash step In no other century did world

statesmen feel that if the law of the jungle prevails in international relations, the world will perish altogether It seems only leaders of Communist China like Mao Tse-tung want war, and hence they are assuming provocative postures While lovers of peace all over the world appreciated the sobriety of Krushchev in 1962, Mao ridiculed him as a coward, who was afraid of the "paper tiger" of Western imperialism

The only factor that can save mankind from another World War is the cultivation of healthy respect for international law

B Foreign Policy

Foreign Policy Influenced by Various Factors Every state, which has to develop relations with other states and which can never live in isolation has to formulate its own foreign policy "Foreign policy now is the bundle of principles and practices that regulate the intercourse of a state with other states"[1] Each state is placed in a particular context, which conditions the drafting of its foreign policy "The foreign policy of a state does not spring like Minerva from the head of Jove—by sheer power of the will of its maker The foreign policy of a country, according to Jules Cambon, a great French adept in the arts of foreign policy, may be affected by the necessities imposed upon it by its geographical position, its history, its need to live"[2]

Certain factors influence the state in drawing up its foreign policy

(1) the political ideology of the state,
(2) the stakes of the state in the various parts of the world,
(3) the geographical factors,
(4) the population of the state,
(5) the economic conditions, and
(6) the pacific or aggressive attitude of the state

The foreign policy of a state which is wedded to the policy of imperialism is bound to be different from that of the state wedded to peace A state having financial and imperialist interests all over the world develops an attitude, which is quite different from that of a state having no such interest A state with mountains and valleys and with no sea-board draws up a foreign policy, which is quite different from the one drafted by a state having

1 M Ruthnaswamy *Principles and Practice of Foreign Policy* (1961) p 1
2 Ibid p 8

politics today, unlike that in the past, is characterised by the existence of two great areas of attraction and repulsion "[1]

Cold War Between the two Power Blocs, there has been much room for misunderstanding on ideological and many other grounds This was responsible for the rise of a cold war, a war of mutual recrimination, a war of words or terrific mental tension The entire world was nervous, when on certain oc asions the cold war threatened to be a shooting war At present, the USA and the USSR have realised that they have to decide between the two alternatives co-existence or complete destruction of the world It is a pity that even when there is a real threat of a nuclear war, some powers still think in terms of spheres of influence, power politics and balance of power

While there is much lip sympathy for the principle of collective security, the gap between words and deeds is very wide At the same time, it is encouraging that the fear of a nuclear war made the USA and the USSR sign a Partial Test Ban Treaty in 1963 Another important move was the announcement on April 20, 1964 of a cut in the output of nuclear explosive materials by President Johnson of the USA and the Soviet Premier Nikita Kruschchev It is not the cut in quantity that is of such great significance, as the fact " that the two super powers have once again acted in concert in a vital field "[2] After the death of Stalin, the efforts made by Krushchev for a *detente* with the West and the acceptance of the principle of coexistence and "different roads to socialism ' showed the new attitude of the USSR

Emergence of Mao's China Communist China under the totalitarian control of Mao Tse-tung has emerged as a great power, which has challenged the Soviet Union in the post-Stalin era Mao's China being thoroughly anti-American suspiciously looks at states (including the Soviet Union) which desire to be friendly to the USA, and misses no opportunity to cavil at them and increase international tension

Neutrality and Non-alignment Certain states in the world dislike war and power politics, and they choose to remain neutral A neutral state takes no part in hostilities, and keeps pacific relations with the belligerents Neutrality may be chosen as a deliberate policy, but sometimes circumstances may dictate a state

1 J S Roucek and Others *Introduction to Political Science* (1954) p 574
2 *The Times of India* April 23, 1964

an insular position A state in which people do not have adequate living space will be tempted to be aggressive, whereas a state in which the population is thin may not like to encroach on its neighbour's territory A state in which there are heavy industries is on a look out in the world for raw materials and markets, and it is likely to develop an expansionist foreign policy, while the chances of a state with a primarily agricultural economy developing an imperialist policy are remote Similarly, a state in which people have developed a "high voltage" aggressive nationalism is bound to follow a policy of aggression A state builds up its foreign policy to propagate its political ideologies, to increase the number of friends, to decrease the number of enemies and to seek co-operation in industry, trade and commerce

Balance of Power Just as individuals love power more than anything else, states also desire to increase their power and prestige in the world The power pattern in foreign relations of the nineteenth and earlier centuries has been described as 'the balance of power' "The idea of a balance among a number of nations for the purpose of preventing anyone of them from becoming strong enough to threaten the independence of others is a metaphor taken from the field of mechanics"[1] History bears witness to countries like Britain trying to build a large empire spread over different continents Britain and other countries drew up foreign policies on the basis of imperialism and self-aggrandizement They always desired to have the balance of power to be in their favour The aspiration for power on the part of several nations, each trying either to maintain or to overthrow the *status quo*, leads of necessity to a constellation which is called the balance of power and to policies which aim at preserving it "[2]

Power Blocs After World War II (1939-45), there has been bipolarisation, and the world became accustomed to the bipolar interpretation of world politics While Britain was leading in the nineteenth century as a first rate power, she lost that enviable position in the twentieth century, which witnessed the USA and the USSR coming to the forefront and becoming Super-Powers The world at present is divided into two Power Blocs viz the USA and her satellites and the USSR and her followers "The United States and Soviet Russia are two magnets around which cluster most of the other nations of the world Thus the world

1 H J Morgenthau *Politics Among Nations* (1952) p 151
2 Ibid. p 127

politics today, unlike that in the past, is characterised by the existence of two great areas of attraction and repulsion"[1]

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1 J S Roucek and Others Introduction to Polit al Science (1954) p 574
2. *The Times of India* April 23 1964

to remain neutral In the 19th century, Belgium and Switzerland became permanently neutral, and the USA nourished neutrality and isolation for a long time Most of the states in the twentieth century have joined one of the Power Blocs

India has chosen not to be a camp follower, and under Pandit Jawaharlal Nehru's leadership she followed the principles of the *Panchasheela* Non-alignment is not the same as neutrality A non-aligned power does not join any Power Blocs, but it is not indifferent to what is happening in the world It can make its own contribution to solve international questions of war and peace Pandit Nehru said in 1949 with reference to India's non-alignment "Where freedom is menaced, or justice is threatened or where aggression takes place we cannot be and shall not be neutral Our policy is not neutralist but one of active endeavour to preserve, and if possible, establish peace on firm foundations Unfortunately Communist China s aggression on India in 1962 put India in a tight corner and her position became awkward but in spite of many temptations held out before her eyes by interested parties, she tirelessly upheld the policy of non-alignment Whether the principle of non-alignment and dynamic neutrality will survive, time alone knows Even after Pandit Nehru s death (in May 1964), India continued her policy of non-alignment While it is true that India became friendless in times of her own distress as she did not oblige any Power Bloc, the merits of non-alignment as a principle and policy cannot be denied The sacrifice of non-alignment may be materially beneficial to India but this would not however mean that non-alignment has no merits

In certain quarters, it is said that India under the Prime Minister Smt Indira Gandhi's leadership has been subordinating her national interests to those of the USSR

C Collective Security

How to Ban War That war is an unmixed evil and a curse has been realised by all sensible people Even in the nineteenth century thinkers like Kant pleaded for the formation of a union of states to uphold the principle of collective security However it was premature to form any union or international organization to serve strictly the principle of collective security The horrors of World War I made leaders like Woodrow Wilson uphold the principle of collective security The great British philosopher Bertrand Russell (who died in February 1970) wielded his powerful pen against war and advocated the cause of peace

The theory of the balance of power in international relations has stood discredited owing to the sufferings it brought to mankind in the nineteenth and eatlier centuries In the twentieth century, right-thinking men have emphasised the importance of the principle of collective security, which is the only alternative to total destruction The League of Nations was formed to cater to the needs of collective security The UNO also works in the same direction The principle of collective security is diametrically opposed to power politics in the international sphere, it stands for the maintenance of peace and security in the world with the co-operation of the various states States, which desire to uphold peace and security should come together, pool their resources and take steps to prevent the outbreak of war "While traditional international law leaves the enforcement of its rules to the injured state, collective security envisages the enforcement of rules of international law by all members of the community of nations, whether or not they have suffered injury in the particular case The prospective law-breaker, then, must always expect to face a common front of all nations, automatically taking collective action in defence of international law"[1]

Though the United Nations Organisation could not succeed in all the cases it handled, there is every reason to feel that it is the only hope of the world (See the Chapters on the League of Nations and the UNO in Part II of this book)

MAIN POINTS

1 **Threat of War** Fear of Nuclear War and total destruction Great anxiety of survival of humanity Need to prevent war

2 **Foreign Policy** Foreign policy of a state conditioned by various factors internal and external Balance of power Emergence of Power Blocs after World War II Cold war Neutrality and non-alignment

3 **Collective Security** Need of collective security to prevent war and destruction Role of the League of Nations and the UNO

1 H J Morgenthau *Politics Among Nations* (1952) p 232

PART II

GOVERNMENTAL MACHINERY

Section IX

FORMS OF GOVERNMENT

CHAPTER 38 CLASSIFICATION OF GOVERNMENTS

A Background

orms of Government and not Forms of State In common usage, many a time the terms 'state' and 'government' are used indiscriminately as if the two terms were synonymous Several books speak of forms of state, which really means forms of government It should be noted at the very outset itself that scientifically it is incorrect to speak in terms of forms of state, as all states have territory, population, government and sovereignty as the essential elements All states in the world, whether the people in them subscribe to liberal principles, communist theories or autocratic shibboleths have all these four essential elements if any one of them lacks any of these elements it does not deserve to be called a state The USA, the UK and the USSR are all states with the same essential elements

The differences that we note among them are as regards government, hence it is proper to speak of Forms of Government and not of Forms of State Governments are organised in different ways, and hence there are different forms of government The political scientist has to be careful in using various terms, and he should not speak of forms of state, when the correct expression is "Forms of Government" "Some writers have held that we ought not to speak of a classification of states, since all are identical in their essential attributes They prefer to classify instead the different

'forms of government seen in the state'"[1] Leacock says that we may "either speak of the various *forms of government* or *forms of state*"[2] Garner is in favour of using the expression *forms of government* " in the last analysis such a classification is nothing more than a classification of *governments* and not of *states* consistency and scientific logic therefore require that such classifications be placed in their proper category and labelled as classifications of governments and not of *states*"[3] R G Gettell says "It may be urged that since states manifest their existence only through their governments, and since on no other basis can they be properly distinguished, a classification of governments is in essence a classification of states"[4]

Meaning Karl Loewenstein says "The term *form of government* usually describes the functional arrangement—co-ordination or subordination—of the various organs in the process of determining the will of the state Here the post-war constitutions did not add anything new to the traditional repertory"[5]

Difficult Topic "Forms of government" is a complex topic on which much study has been conducted by various scholars at different times and ages since the birth of political science But even now, the topic is not easy for study, as classification of governments cannot be made in a simple way according to one principle only For instance, a government like that of Britain or India may be classified as democracy according to one principle, the classification is not complete, as it is parliamentary also In the same way, the government of the USA is democratic and also presidential In judging the governments of England and the USA we make use of more than one criteria To make the problem more confusing, England has a monarch in a democratic set-up Thus it has to be noted that forms of government have to be studied by taking into consideration various principles of classification

Greek Thinkers To have a comprehensive view regarding the topic 'Forms of Government', we have to peep into the dead past, and fix our eyes on the studies conducted by the thinkers of ancient Greece The names of philosophers that strike our mind first are Socrates, Plato and Aristotle The views of these

1 S Leacock *Elements of Political Science* (1983) p 108
2 Ibid p 109
3 *Political Science and Government* (1955) p 122
4 *Political Science* (1956) p 191
5 In Eckstein and Apter (Ed) *Comparative Politics* (1963) p 153

thinkers can be understood and appreciated fully only when we take note of the circumstances in which these seers found themselves, and the influences which their environments worked on their minds Greece produced small city-states, and not large territorial nation states as we see today The city-state environment and the numerous factors at work in the city-states shaped the thinking of these great philosophers Socrates, who valued virtue, justice and goodness was the teacher of Plato, and Plato the great idealist was the master of the master-mind, the mobile university, Aristotle Greek political thinkers did not draw a line of difference between state and government, as we do in modern times This was because all the citizens of a city-state, say for instance Athens, had to actively participate in the affairs of the city-state Today, while most of the adults in highly advanced democracies cast their votes during elections, only a very small percentage of them is in the government All people are members of the modern state, but only few are in government

We are concerned here chiefly with Aristotle's views, though a brief reference may be made to those of Socrates and Plato

Socrates Socrates spoke of three chief forms of government viz monarchy, aristocracy and democracy, he believed that "only those who know shall rule" So the classification is according to the number of people who rule along with the application of the principle of knowledge

Plato As with Socrates, with Plato also, knowledge weighed very much, and he classified governments applying the standard of knowledge Plato believed in a political cycle, which brought about change in government, which resulted in the good becoming bad or the best becoming second best According to Plato's classification, there are three kinds of states

(1) *The State of Perfect Knowledge* This is an ideal state, as great ideas or reason is sovereign Herein one notes the sovereignty of reason or wisdom, and not the sovereignty of one or of a group of people

(2) *States of Imperfect Knowledge* In these states, men are imperfect, and therefore laws are necessary, but the laws are obeyed by the people

(3) *States Wanting Knowledge* These are states of ignorance, in which laws exist but are not obeyed by the people

Plato's classification cannot be accepted fully for this world in which imperfect men live and in which a state with the sovereignty of reason is out of question It is, therefore, needless to examine the first type of Plato s state Taking the two remaining types into consideration, we can divide them into two categories (1) States in which laws are obeyed, and (2) States in which laws are violated A state in which one man rules and in which laws are obeyed is called monarchy, a state governed by one man is called tyranny, if laws are not obeyed in it The rule of the few in a state in which laws are obeyed is called aristocracy, and the rule of the few in which laws are disobeyed is called oligarchy Similarly, the rule of the many in a state in which laws are obeyed is called moderate democracy, while the rule of the many in a state, in which laws are disobeyed is called extreme democracy Plato gives the highest place to monarchy, the next place to aristocracy and oligarchy, and the lowest place to tyranny As regards democracy, he says that it is better in non-law states and worse in which law prevails

Plato lays great emphasis on the type of mind, which exercises power in the state His ideal state of perfect knowledge is called *ideocracy* *According to the political cycle, as the mind* degenerates, ideocracy makes room for timocracy, the rule of honour or spiritedness, which is synonymous with military rule Reason finds a place in timocracy, but the rise of selfishness and private property brings down the tate In course of time, timocracy shades of into oligarchy, which is the selfish rule of a few Then people rebel against oligarchy, and democracy is set up but in democracy, as conceived by Plato, there is the rise of the ordinary man in the street As the ordinary man and not the ideal man rules, there is no order, freedom or justice in democracy *Democracy enables demagogues to seize power, and thus tyranny* rises

B Aristotle's Classification

1 Aristotle s Views

Classification according to Number and Aims Aristotle s views on this topic merit greater attention than those of Plato, as they are realistic and provide a reasonable basis of classification While Plato's state of perfect knowledge does not rest anywhere on earth, it is possible to apply Aristotle's principle of classification to a world of reality

Aristotle classifies governments according to two criteria (1) number of persons wielding supreme power, (2) purpose (good or bad) for which supreme power is wielded Governments are normal, if they have good aims of promoting the welfare and happiness of the people, and if they actually bend their energies in realising these aims But when governments ignore these noble aims and work in an evil way for promoting the ignoble and selfish ends of those wielding supreme power to the detriment of the larger interests of the community, they are perverted

Table of Aristotle's Classification

First Principle Number of Persons Exercising Supreme Power	Second Principle Purpose of Exercising Supreme Power	
	Normal Form of Government	Perverted Form of Government
One	Monarchy	Tyranny
Few	Aristocracy	Oligarchy
Many	Polity	Democracy

A government by one man is regarded as monarchy, if it aims at the realisation of good life Normally a monarch keeps before his mind a high and unselfish aim to promote the good of the people When the ruler forgets the public good and aims at promoting his own good, he degenerates into a tyrant

The normal government of a few people aiming at public good is aristocracy, its preverted form is oligarchy

In the same way, the normal rule of the many is polity, in its perverted form it is democracy

As in Plato's classification, in Aristotle's clas ification too, we discern the political cycle In Plato we realise that the lower ing of the mind leads to degeneration The movement is from ideocracy to timocracy, timocracy to oligarchy, oligarchy to democracy, and finally from democracy to tyranny Here the word 'democracy' is used not in the modern sense, but in the Platonic sense In Aristotle's classification, the lowering of the aims of the state results in perversion, whether it is the rule of one, few or many Monarchy degenerates into tyranny, aristocracy

deteriorates into oligarchy and polity becomes perverted to form democracy Here again, it should be noted that 'democracy' is to be understood not in the modern sense, but in the Aristotelian sense Today we do not talk of polity, what was polity to Aristotle is to us democracy What was democracy to Aristotle is to us mob rule or ochlocracy

The difference between the classification of the two great Greek philosophers is obvious : in Plato we find an idealist approach in Aristotle the approach is relatively scientific or rational

2 Evaluation of Aristotle's Classification

Let us briefly consider the merits and defects of Aristotle's classification

Merits The following are the merits of Aristotle's classification

1 Earliest Thinker to Classify Credit should be given to Aristotle for his classification which was the earliest or one of the earliest Aristotle's approach was scientific and systematic He classified governments after making a thorough and exhaustive study of all the types of government known in his days We cannot judge Aristotle by the modern standards but when judged by the contemporary standards, that is, of the 4th and 3rd centuries B C., Aristotle's views on classification have to be appreciated

2 Provided Historical Basis Aristotle's qualitative and quantitative classification is of practical use, as Gilchrist says it has provided the historical basis of practically all classifications made hitherto It was Aristotle who set the ball of classification of governments rolling Even though his classification became *outdated after some time, he provoked political scientists to* think about the problem of classification seriously and make their own contribution

3 Perversion in Government The degeneration that Aristotle outlines in his classification or in his political cycle, one can actually see in some of the ancient or modern states of the world Being a product of his times, Aristotle could not be blind to the degeneration of monarchy into tyranny, of aristocracy into oligarchy, and of polity into democracy The trend in the lure for power, as we find in some of the modern states, may not be exactly similar as given in the Aristotelian pattern, but the evil

spirit of degeneration is one and the same As in ancient times, in modern times too, we find the growth of corruption in a monarch's rule, degeneration in the rule of a few capitalists in power, or the decay in the standards of the so-called democratic leaders The standards maintained by some of the modern capita list (or aristocratic) or democratic leaders are far from satisfactory

4 **Systematic Classification** Aristotle had a definite scientific method to classify governments He did his job of classifying, bearing two clear-cut principles in mind

Demerits The following are the chief demerits in Aristotle's classification

1 **State and Government not Separated** Aristotle does not distinguish state from government This flaw is serious, because this difference is one of basic importance in political science

2 **Inadequate** His classification is very simple, and it may be useful only in the study of the ancient city-states of Greece, but as far as modern territorial states are concerned, the classifi cation is totally inadequate For instance a proper study of states like India today cannot be made with the application of Aris totle's simple classification The study of the British Constitution is not possible with this classification England has a monarch; yet England is a democracy Aristotle uses terms, whose meaning does not fit into the modern political and constitutional context While we value democracy as the most desirable form of govern ment, Aristotle regards it as the perverted form of polity To us, democracy is people s government which is highly valued, but to him it is mob rule Forms like Tyranny and Polity are found almost nowhere in the world today

3 **Distinctions Difficult** It is difficult to draw a clear line of *difference between aristocracy and democracy Here again England's* example can be taken to show how the two are mixed Distinction between aristocracy and oligarchy is al o difficult

4 **Several Factors Ignored** Aristotle's classification is much obsessed by ethical values Aristotle speaks of the citizen's partner ship with the state in a life of virtue and happiness This is not the case with the modern citizen While ethical values should be given the importance due to them in modern states, it is incorrect to ignore other factors Aristotle ignores the various social and economic factors which influence the growth of the state Greek philosophers like Aristotle give an ethical basis to the state, but modern political thinkers give it a legal basis

5 **Complex Structure** The structure of modern governments is highly complex Aristotle's classification presumes governments to be in pure form, which is not the case today No form of government anywhere in the world is pure at present

C Classification of Governments by Other Writers

We now consider briefly the views of modern writers like Machiavelli, Jean Bodin, John Locke, Montesquieu, Rousseau, Bluntschli, Von Mohl Jellinek, Burgess Marriott, Leacock and Mac Iver

1 **Machiavelli on Aristotle's Classification and Mixed Form of Government** Machiavelli the famous Italian author of the *Prince* and the relentless advocate of absolute monarchy accepts Aristotle's classification Besides, Machiavelli puts forth the mixed form of government as found in the works of the ancient Greek historian polybius and the Roman writer Cicero The Stoics in Greece and even Aristotle mention mixed type of states Strictly speaking, there is no such a thing as a mixed state It would be ridiculous to divide states into Pure States and Mixed States Those who speak of mixed states do not clearly distinguish between state and government What they mean to say is that elements of monarchy, aristocracy and democracy are blended in a particular government (not state) While Aristotle's classification belongs to the ancient times, that of Machiavelli belongs to the modern, in fact, it is Machiavelli's writings that draw the line of separation between the medieval times and the modern While ancient thinkers like Socrates Plato and Aristotle lay great emphasis on ethical values, Machiavelli separates the ethical principles from the political As a practical-minded thinker, Machiavelli believes that the form of government should be according to the circumstances Mostly, he expresses his chief concern for monarchies and democracies

2 **Bodin on Monarchy Aristocracy and Democracy** The first comprehensive classification of forms of government in modern times is given by Jean Bodin He speaks of three forms monarchy, aristocracy and democracy

3 **Hobbes Follows Bodin** Bodin's classification is followed by Hobbes but Hobbes does not distinguish state from government

4 **Locke's Emphasis on Legislative Powers** Locke speaks of the highest importance of legislative power in a state and classifies as democratic, oligarchic and monarchical according

to the location of the supreme law-making power Unlike Hobbes, he clearly distinguishes state from government

5 **Republics and Monarchies in Montesquieu** Montesquieu classifies governments into three forms (1) Republics which may be aristocratic or democratic, (2) Monarchies of the Western type, and (3) Monarchies of the Eastern type i e Despotisms

6 **Monarchy, Aristocracy and Democracy in Rousseau** Rousseau speaks of three forms of government Monarchy, Aristocracy and Democracy He gives the concept of the General Will, which is the basis of popular sovereignty

7 **Aristotle's Classification and Theocracy in Bluntschli** The German-Swiss writer Bluntschli adopts Aristotle s classification, and adds one more form of government, that is, theocracy The perverted form of theocracy is idolocracy Strictly speaking, theocracy cannot be a separate form of government, and it can be easily brought under one or the other category in Aristotle's classification

In a theocracy, it is believed that the ruler's will gives expression to God's will, and religion is mingled with politics In contrast to the theocratic state there is the secular state In a theocracy, government has an official religion of its own, whereas a secular government like India is neutral in religious matters, and it neither favours nor penalises any religion The balance of religions is held evenly by the government in India Pakistan unlike India is a theocracy upholding Islamic principles, so also is Israel The Muslim countries of the Middle East are also theocracies There is a difference between theocracy of ancient times and that of modern times In ancient times, theocracy meant a government in which the ruler said that he represented the will of God, whereas in modern times it means a government in which religion plays an important part in public affairs

Modern political scientists clearly separate religion from politics

8 **Patriarchal, Theocratic, Patrimonial, Classic, Legal and Despotic States in Von Mohl** Robert Von Mohl, a German publicist of the nineteenth century having for his background the canvas of history classifies states as follows (1) Patriarchal states, (2) Theocracies, (3) Patrimonial states, (4) Classic states of Greece and Rome, (5) Legal states functioning according to law, (6) Despotic states

The cardinal defect in Von Mohl's views is the lack of difference between state and government, moreover his classification is not made according to any single clear-cut principle Moreover, there is overlapping in his classification

9 Monarchy and Republic in Jellinek George Jellinek of the Heidelberg University in the nineteenth century rejects the classifications of all writers since Aristotle "as being arbitrary, unscientific confusing and valueless"[1] He classifies governments into two types Monarchy and Republic

10 Burgess Supports Aristotle In his *Political Science and Constitutianal Law* (1896), Burgess regards the Aristotelian classification as "correct and exhaustive and that no additional forms could be made out of a combination of these three (i e monarchy, aristocracy and democracy) or by a union of several states"[2]

11 Three Types of Classification by Marriott J A R Marriott says that Aristotle's classification, though fundamental and useful is inadequate to meet modern requirements Today there are various forms of government, which do not yield to the simple and outdated classification of Aristotle Marriott classifies governments in three ways (1) Unitary and Federal, (2) those with Rigid constitutions and those with flexible, and (3) those with Presidential form and those with Parliamentary

Unitary and Federal In a unitary state, which has only one set of government, the different units into which it is divided (whether they are called Provinces or Counties) are the creations of the central government England has a unitary form of govern men the central government can change the counties or abolish them if it so de ires On the other hand, in a federal state in which there are two sets of government both the federal and provincial or state governments enjoy powers as given in a written constitution The federal government cannot treat the state govern ments as its creatures Both the federal and state governments derive their powers from the constitution The USA is a federation, in which the units known as States derive their power from the Constitution and not from the Federal Government (See Chapters 42 and 43 for details)

1 J W Garner *Political Science and Government* (1955) p 230
2 Ibid p 233

Rigid and Flexible Constitutions The second classification of Marriott is on the basis of constitution Constitutions are of two types flexible or rigid A flexible constitution can be amended easily, the procedure of amendment is very simple, and the legislature in its ordinary course can amend the constitution in the same way in which ordinary laws are amended or passed On the other hand, it is difficult to amend a rigid constitution, as a special procedure of amendment is laid down The method of amendment is complicated England has a flexible constitution, whereas the United States of America has a rigid one (See Chapter 45 for details)

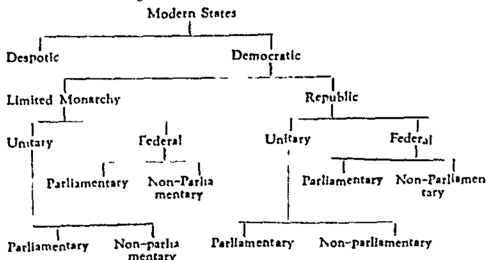
Monarchical, Presidential and Parliamentary The third classification is according to the relations between the executive and the legislature Marriott draws the line between monarchical and presidential government on one side and parliamentary, cabinet or *responsible government on the other Here the question of the* position of the executive *vis-a-vis* the legislature rises In a despotic monarchy, the executive is superior to the legislature, in the presidential system, the executive is co-ordinate with the legislature, and in the cabinet system the executive is subordinate to the legislature As despotic monarchies do not form the general order at present, we are concerned chiefly with the presidential and cabinet systems In the USA, there is the presidential system, the president cannot be removed from power by the legislature before his term of 4 years expires England and India have the cabinet system The cabinet is responsible to the legislature, and can remain in power only as long as it can command the confidence of the legislature (See Chapters 53 and 54 for details)

12 Leacock's Classification into Despotic and Democratic, Limited Monarchy and Republic, Unitary and Federal, Parliamentary and Non-Parliamentary Stephen Leacock's classification of governments is broadly into despotic and democratic A despotic government is one in which power is vested in a single person, who uses it according to his own will For instance, in medieval times the sultans of Delhi ruled as they liked

A democratic government is one in which power is vested in the people At present, India has a democratic form of government

Leacock divides democratic governments into two categories: (1) Limited Monarchy, and (2) Republic. Each one of cateogries is divided into Unitary and Federal Both [illegible]
Federal Forms are divided into Parliamentary and Non-P

The following is the table as given by Leacock[1]



13 **Mac Iver's Classifications on Four Bases-Constitutional, Economic, Communal and Sovereignty Structure** Mac Iver says "No specific form of government endures, though there are certain major-type forms that have at least a relative permanence'[2] While he agrees that the traditional classification has stood the test of time, as it is based on a primary differentia between types of government, he criticises it as inadequate to classify certain forms of government as found in feudal states, city-states republican states and limited monarchical states To meet the requirements of modern times, Mac Iver, as given in his Conspectus, classifies governments on four bases

(1) Constitutional,
(2) Economic,
(3) Communal, and
(4) Sovereignty Structure

1 **Constitutional** On the constitutional basis, governments come under two types (a) Oligarchic, and (b) Democratic

(a) Oligarchy takes different external forms In monarchy, dictatorship, theocracy and plural headship, power may actually lie in the hands of oligarchs Behind the monarch, there may be a ruling clique of oligarchs The same may be the case with a dictator Monarchy is hereditary, dictatorship originates in a *coup d etat* and the theocratic ruler is elected by a priestly college or

1 *Elements of Political Science* (1933) p 117
2 *The Web of Government* (1959) p 149

caste "Of all theocracies that of Judea was the most potent in consequences for the modern world It differed from most others in its completeness and in its intransigence Its theocratic spirit sub ordinated considerations of class and gave an unusual unity to the people as a whole"[1] Dual headship is found in primitive society Pre-imperial Rome (of coequal consuls) and the medieval city-states like Florence are examples of plural leadership

(b) Democracy can be under limited or constitutional monarchy as in Britain It can also exist under a republican constitution like that of the USA or India

2 **Economic Basis** Governments can be divided into 4 types according to the type of economy followed by them

(1) In ancient times, there was folk economy in the primitive governments

(2) In the medieval period in Europe, there was the feudal economy, in which the feudal estate or manor was the economic unit

(3) In modern times with the outbreak of the Industrial Revolution during 1750–1850, Western countries like England developed a capitalist economy

(4) As a reaction against capitalism, there arose socialism in the 19th century, and several counties developed a socialist economy

3 **Communal Basis** On a communal basis, there are different types of government

(1) In very ancient times, government was in the hands of a tribal leader This was a primitive type of government

(2) In countries like Greece, city-states were organized

(3) In several cases, monarchy or any other type of govern ment gave peace and order to the people of the whole country In modern times, with the rise of nationalism, nation states emerged

(4) Under the same government, there can be several nationa lities

(5) World government is yet to be formed

4 ***Sovereignty Structure*** *Mac Iver speaks of three forms* of government according to the sovereignty structure

(1) Unitary Government,

(2) Federal Government

(3) Empire, Colony and Dependency

1 Ibid p 153

Conspectus of the Forms of Government[1]

1 Constitutional Basis	2 Economic Basis	3 Communal Basis	4 Sovereignty Structure
I Oligarchy			
a1 Monarchy	b1 Folk Economy-Primitive Government	c1 Tribal Government	d1 Unitary Government
a2 Dictatorship			
a3 Theocracy	b2 Feudal Government	c2 Polis Government	d2 Empire Colony Dependency
a4 Plural Headship	b3 Capitalist Government	c3 Country Government	d3 Federal Government
II Democracy	b4 Socialist Government	c4 National Government	
a5 Limited Monarchy		c5 Multi national Government	
a6 Republic			
		c6 World Government	

D Obstacles in the Way of Classification

With all the forms of classifications of governments furnished by modern writers like Marriott, Leacock and Mac Iver we are not in a position to surmount the numerous difficulties that confront us in bringing about a real and complete classification of modern governments

The following are the difficulties which come in way of classifying governments

1 Difference in Form and Spirit A particular form of modern government may not yield to one particular type of classification For instance, there is much difference between the form of government and the true spirit that animates it into action and so also the difference between the apparent and the real may be noted

England in actual practice shows the spirit of a republic, while it is a limited monarchy in external form Theory indicates England as a monarchy, though actually the monarch exercises nominal power and every action of his has to bear ministerial responsibility

Another example can be given to show the difference between form and spirit France has no king the head of the state the

1 Ibid p 151

President is elected Hence, in form the government is a republic, but in actual practice French political institutions appear to be as *in a monarchical state, and the spirit that animates the govern ment* is the imperialist spirit and not the spirit of a republic The conduct of the French Government in recent times bears ample testimony to the truth of the allegation The nature and the attitude of the French people, who are regarded as unrealistic and emotional quite contrary to the sober and realistic British people, contribute much in keeping the gap between form and spirit rather very wide

India today can be given as a third example Some would like to ask the question whether India is truly federal or unitary The Constitution does not use the word 'federal', according to the written word of the Constitution, India is a "Union of States" Even then, India is a federation, but the difficulty is that residuary powers are not with the states as in federations like the USA India combines unitary features and federal features It is better to regard India as quasi-federal

2 **Rapid Changes** Very rapid changes take place in this age in which scientists envisage inter-planetary travel In 1969, American astronauts landed on the moon Political situations change rapidly, and it is almost impossible to apply the same foot-ruler of classification While in ancient times, thinkers like Plato and Aristotle used to speak of political cycles according to which governments change or degenerate in a particular pattern, the same cannot be said about modern times It is absurd to say today that monarchy degenerates into tyranny and aristocracy stoops to become oligarchy and so on "We must not be deceived by the outward forms of a particular state the old classification of monarchy, aristocracy and democracy have become practically meaningless for they give no clue to the real purposes of the state "[1]

3 **Forecasting Changes Difficult** Governments do not behave in a particular way or change their forms according to a set principle In modern times, so many factors are at work in various states, and particular political effects cannot be precisely forecast Governments cannot be dealt with in the same way as substances are handled by the chemist That is why modern thinkers cannot evolve particular laws or principles pertaining to succession of governmental forms

1 R H Soltou *An Introduction to Politics* (1959) p 113

4 **Emergence of New Factors** In modern times, particularly in the nineteenth century, in which new political and economic forces emerged and grew rapidly, the problem of classification of governments has become more complex Nationalism, liberalism and democracy are powerful political forces of the modern times According to the basis of liberal ideas or their absence, governments can be regarded as democratic or totalitarian With the rise of industrial capitalism and its antithesis socialism, economic factors also play an important part in shaping the form of government The economic factor is so important that Mac Iver makes it a separate basis of classification, and calls governments primitive, feudal, capitalist or socialist The communists desire to speak of two types of governments only, that is, communist and capitalist

E *Solution to the Problem of Classification*

Single-basis Classification Impossible The problem cannot be solved by having one basis of classification, for, as it has been already noted the complex nature of modern governments defies a single-basis classification The only way out is to study modern authors like Marriott, Leacock, Mac Iver, Bryce, Jenks and Strong and classify governments according to the following bases

(1) the sphere of the state,

(2) the nature of the state,

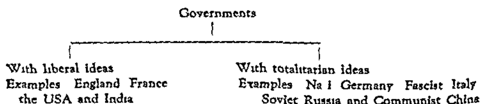
(3) the nature of the constitution, and

(4) the nature of the (a) executive, (b) legislature, (c) judiciary, and (d) electorate

" Our classification does not pretend to be exhaustive, because much of the subject-matter of comparative constitutional politics defies classification But it does adequately cover sufficient ground "[1]

The following tables give classification on various bases

1 The Sphere of the State



1 C F Strong, *Modern Political Constitutions* (1958) p 61

2 The Nature of the State

Governments

Unitary type	Federal type
Examples England and France	Examples USA Canada Australia and India

3 The Nature of the Constitution

Governments

With Flexible Constitution	With Rigid Constitution
Example England	Examples USA and France

4 The Nature of the Organs of Government and the Electorate

(a) The Nature of the Executive

Governments

Parliamentary or Responsible	Non-Parliamentary
Examples England France and India	Example USA

(b) The Nature of the Legislature

Governments

With Uni-cameral Legislature	With Bicameral Legislature
Examples Some states like Kerala and Gujarat in India State of Nebraska in the USA State of Queensland in Australia	Examples USA England France and India

(c) The Nature of the Judiciary

Governments

With Rule of Law	With Administrative Law
Examples England and India	Example France

(d) The Nature of the Electorate

Governments

With Adult Suffrage	With Limited Suffrage
Examples England France and India	Examples England in the 19th century and British India

MAIN POINTS

1 **Classification of Governments** All states have same elements No forms of state but only forms of government Governments organised in different ways Classification is complex and difficult Ideas of Greek thinkers like Socrates Plato and Aristotle

2 **Aristotle s Classification** Governments classified by Aristotle according to two principles 1 Number of persons wielding supreme power 2 Purpose of wielding power According to the first principle–Monarchy Aristocracy and Polity are normal forms According to the second principle–Tyranny Oligarchy and Democracy are perverted forms

3 **Evaluation of Aristotle s Classification** Merits—1 Earliest thinker 2 Provided historical basis 3 Cycle of degeneration 4 Systematic and scientfic classification Demerits—1 State and Government not separated 2 Inadequate 3 Distinctions difficult 4 Several factors ignored 5 Structure of modern governments complex

4 **Classification by Modern Writers**

1 **Machiavelli** Aristotle s classification and mixed forms Separated politics from ethics

2 **Bodin** Monarchy aristocracy and democracy

3 **Hobbes** Follows Bodin State and government not distinguished

4 **Locke** Democratic oligarchic and monarchical

5 **Montesquieu** Republics and Monarchies Despotism

6 **Bluntschli** Aristotle s classification and theocracy

7 **Rousseau** Monarchy Aristocracy and Democracy General Will

8 **Von Mohl** Patriarchal Theocratic Patrimonial Classic Legal and Despotic States

9 **Jellinek** Monarchy and Republic

10 **Burgess** Supports Aristotle

11 **Marriott** Unitary and Federal Flexible and Rigid Monarchical Presidential and Parliamentary

12 **Leacock** Despotic and Democratic Limited monarchy and Republic Unitary and Federal Parliamentary and Non-Parliamentary

13 **Mac Iver** Classification on four bases–Constitutional, Economic Communal and Sovereignty Structure

CHAPTER 39

MONARCHY AND ARISTOCRACY

I Monarchy

A Meaning

Supreme Power in King's Hands Monarchy is a form of government in which supreme power is vested in the hands of a hereditary monarch According to Aristotle, monarchy is a normal form of government, in which supreme power is vested in one person, who rules to promote the welfare of the people It is the oldest form of government, which rose almost everywhere in the world R G Gettell says "While monarchy is generally considered as a form of government in which the head of the state derives his office through hereditary succession, any government in which supreme and final authority is in the hands of a single person is a monarchy, whether his office is secured by usurpation, by elec tion, or by hereditary succession"[1] In studying this definition, one must not mix up monarchy and dictatorship, for by no stretch of imagination the dictatorship of Hitler or Mussolini can be put on a par with the monarchy of Akbar the Great or Queen Elizabeth II Hundreds of examples of monarchy all over the world can be given, as at one time it was found everywhere in the world In ancient and medieval periods, monarchy was almost universal In the ancient cultures of Egypt, Sumeria Babylonia, Assyria, Chaldea, India, China, Persia, Greece and Rome, there were kings In medieval and early modern times, monarchy continued, but it got a serious setback in modern times with the rise of nationalism, liberalism and democracy

Few states in the world have monarchs at present Among the most powerful states today, only England has monarchy, in this country too, monarchy survived as it was rendered harmless by parliamentary control The British monarchy is strictly limited or constitutional The English people have tolerated the continua

1 *Political Science* (1956) p 195

tion of monarchy within the pattern of a parliamentary or responsible system of government, as the monarch does not have a will of his own The cabinet in England exercises *de facto* power, though the government is in the name of His or Her Majesty France, Germany, the USA, the USSR, India and China and other states do not have monarchy, they are republics

B Fortunes of Monarchy

Favourable Factors For a long time, several factors were in favour of monarchy These were the following

1 Almost everywhere in the world obedience to the authority of the king was habitual, as religious and other factors prompted the people to submit to the monarchical government

2 Monarchy provided the most stable type of government at a time when people were desperately in need of peace and security

3 In European countries in the feudal period, the people came to know the feudal barons in their true colours and felt, not without justification, that monarchy with all its drawbacks was far better than baronial rule

4 The record of some great kings in the different parts of the world and the golden age ushered in by monarchs in their respective countries were highly in favour of monarchy

Unfavourable Factors Certain factors were unfavourable to monarchy These were the following

1 The abuse of power by some of the power-drunk and oppressive monarchs in modern times utterly discredited monarchy

2 With the end of the age of faith and with the dawn of the age of reason, climate in Europe became very uncongenial for the continuation of monarchy

3 The rise of the spirit of nationalism, liberalism and democracy in the nineteenth century gave a further set-back to monarchy

4 Revolutions like the American, the French, the Latin American and the Bolshevik strengthened the hands of the people and overthrew monarchy In the later modern times the spirit of republicanism caught the imagination of people in several countries Republics were set up in various countries viz the USA, France the Latin American countries, the USSR, India and the People s Republic of China

C Kinds of Monarchy

Monarchy can be classified in two ways (1) Absolute and Limited and (2) Elective and Hereditary

1 Absolute and Limited In an absolute or despotic monarchy, the government is conducted according to the will of the monarch, who is not responsible to anyone An absolute monarch exercises real power without any hindrance or restraint He can do whatever he likes, good or evil, without being questioned by anyone People are helpless, if he governs cruelly and capriciously, as they have no voice in the government

Sometimes absolute monarchy assumes a theocratic colour

A constitutional or limited monarch cannot govern arbitrarily according to his whims and fancies He is bound by constitutional principles and conventions, and is answerable to the legislature or the people While Louis XIV of France could rule despotically and say egoistically "I am the state", Queen Elizabeth II of England today has no will of her own She exercises only nominal power, and real power is exercised by the cabinet with the Prime Minister as head Monarchies which have survived today in Europe are all constitutional Under British rule in India, the Indian kings could govern despotically subject to British Paramountcy With the end of British rule and establishment of the Sovereign Democratic Republic of India, princely rule also came to an end "What is usually described as limited monarchy is one in which the power of the monarchy is restricted by prescriptions of a written constitution or by certain unwritten fundamental constitutional principles, such as the British monarchy "[1]

2 Elective and Hereditary In the case of elective monarchy, succession is governed by election, whereas in the case of hereditary monarchy, succession is governed by hereditary principle Monarchy is hereditary in England In early Rome, monarchs were elected, so also were monarchs in Poland Generally, monarchies are hereditary Mac Iver's observation on monarchy and dictatorship is worth-noting "Hereditary monarchy is very different from dictatorship in structure and *limited monarchy* belongs in the area of democracy whereas absolute monarchy is at the opposite pole "[2]

D Merits and Defects of Monarchy

Let us briefly discuss the merits and defects of monarchy

Merits History gives several examples of eminent writers singing the praise of absolute monarchy Bousset, Hume and

1 J W Garner *Political Science and Government* (1955) p 280
2 *The Web of Government* (1959) p 149

Turgot were the great panegyrists of kings Though it is true that these writers indulged in excessive flattery, it is incorrect to suppose that monarchy did no good to the people Monarchy did render valuable service at a certain stage of history

Monarchy can claim the following merits

1 **Acts Promptly** Monarchy has unity of command, singleness of purpose and simplicity of organisation Quick decisions can be taken and in times of war or emergency great secrecy can be maintained Laws can be enforced easily Merit in wise and capable men can be easily recognised by the monarch, and they can be put in authority Inefficient dishonest and other undesirable incumbents can be speedily eliminated from the administration

2 **enevolent** A country can reap great benefits if it is governed by a capable and benevolent monarch Kings like Ashoka and Akbar Charlemagne and Harun Al Raschid made their respective countries happy

3 **Good for Primitive Societies** Absolute monarchy is the ideal form of government for primitive societies Even in the case of advanced societies, there have been cases, when monarchs acquitted themselves creditably Even Rousseau, the champion of popular sovereignty uttered a word of praise for monarchy "Rousseau went on to compare a skilful monarch governing his people throughout a vast state and making everything move, while seeming himself unmovable, to an engineer, seated tranquilly on the shore of a ea and etting in motion without difficulty a huge vessel upon its waters"[1] R G Gettell points out "Monarchy was well suited to the needs of early states, when it was necessary to impress discipline and habits of obedience on uncivilised peoples and when political consciousness and the ability to take part in government were not yet developed"[2]

Defects The following are the main drawbacks of monarchy

1 **Inefficiency** The world has seen many weak and inefficient monarchs, who presided over chaotic conditions Capable monarchs are few and far between Perhaps for one Akbar there may be hundreds of inefficient, unenlightened or oppressive monarchs

2 **Curse to People** An absolute and oppressive monarch devoid of wisdom and understanding can be a curse to the people,

1 J W Garner *Political Science and Government* (1955) p 340
2 *Political Science* (1956) p 196

who in their misery may not be able to do anything against the king Unbridled power of a monarch can be a continuous nightmare to the helpless people There is no limit to which foolish and selfish kings cannot go in misgoverning

3 **Evil of Heredity** Hereditary monarchy may become an evil If succession is hereditary, there is the possibility of a good and enlightened king being followed by a weak, stupid or oppressive monarch " there is always the possibility that an imbecile or a fool rather than a sage or a statesman may succeed to the throne and be charged with governing and determining the destinies of millions of people "[1]

4 **No Place for Worthy Men** In an absolute monarchy, there may not be any scope for worthy men, as appointments are made according to the whims and fancies of the ruler Sycophants and flatterers thrive in the courts of despotic kings while honest and worthy persons may find it difficult to get appointments, and even if they do get them, they will find the court atmosphere quite uncongenial

II Aristocracy

A Meaning of Aristocracy

Rule of Nobles Aristocracy is a form of government in which the final or ultimate authority is vested not in the hands of the king or of the people, but in the hands of a group of nobles, who rule by virtue of their birth, wealth and experience The Greeks regarded aristocracy as the government by the best (in Greek *aristos* means best, and *kratos* means power) " Aristocratic government places political power in a comparatively small part of the population of the state This class may be based on birth, wealth, age, military power, priestly power, education, or a combination of these and similar distinctions "[2]

In various parts of the world, aristocracy rose, but it was never so widespread as monarchy In Greek city-states like Athens, one of the forms of government was aristocracy In Rome, with the abolition of monarchy, power fell into the hands of the Patricians (Roman nobles) The ancient Roman Republic was not democratic but aristocratic For some time at least, all power was vested in the hands of Patricians In the various parts of the world, aristocrats were in the lime light even in a monarchy

1 J W Garner *Political Science and Government* (1955) p 342
2 R G Gettell *Political Science* (1956) p 197

Monarchy depended much on aristocrats, who were the bulwarks of the king's power For instance, the aristocrats were the supporting pillars of the despotic monarchy of Louis XIV In modern times, all over the world, the voice of the aristocrats was predominent In Britain, even after Parliament came to the forefront, all power was in the hands of the landed aristocracy, and with the outbreak of the Industrial Revolution, power was monopolised by the industrial magnates In certain states, aristocracy, landed or industrial, actually governs under the cloak of democracy In almost all modern democracies, power that really counts is in the hands of the rich

B Kinds of Aristocracy

Birth, Wealth and Culture Most of the writers do not try to classify aristocracies, but some writers have spoken of different kinds Rousseau speaks of natural, elective and hereditary aristo crats Garner mentions "aristocracies of birth or family aristocracies of wealth aristocracies of culture and education, aristocracies of elder statesmen military and even priestly aristocracies, natural and artificial aristocracies, etc '

C Decline of Aristocracy

Attacks from Democracy and Socialism There was a time when aristocrats wielded great power almost all over the world As the fortunes of aristocrats were linked with those of monarchy, the decline of monarchy also led to the decline of aristocracy In modern times, the forces of socialism and democracy have been harmful to the interests of the blue-blooded people In the Age of Revolutions (1750-1850) along with monarchy, aristocracy also got rude shocks With the onward march of democracy, and with the triumph of the principles of liberty and equality, aristo crats lost the privileges, which they once enjoyed and jealously guarded

Aristocracy as a form of government in the technical sense is almost extinct now, but big business talks loudly even in a democratic set-up

D Merits and Defects of Aristocracy

Let us briefly discuss the merits and defects of aristocracy

Merits As a form of government aristocracy can claim the following merits

1 *Emphasis on Quality* Aristocracy lays emphasis on quality *rather than on quantity, it recognises the principle that all people*

in society are not competent to govern Only a few people are capable of governing by virtue of their birth, family background, wealth and experience Thus only men with quality or those capable of doing full justice to the task of governing should be allowed to exercise power The record of several aristocracies in the world bears ample evidence to the value of quality

2 *Curbs Passions* Aristocrats, owing to their conservative outlook and the desire to wait, watch and examine, are in a position to curb unreasonable or passionate tendencies in a state The moderation exercised by aristocrats on government is valuable

3 *Stability* Aristocrats have been responsible to give a good measure of strength, efficiency and stability to governments all over the world by upholding customs and traditions

Demerits Aristocracy suffers from the following drawbacks

1 *Wealth not Synonymous with Wisdom and Goodness* Aristo crats may boast of their birth, wealth and experience, but not in all ca es these have value from the point of view of the public A wise aristocrat's son need not necessarily be wise, yet by virtue of his birth he wields authority to the detriment of the people Similarly, the qualification of wealth also can be called for scrutiny Wealth can never be synonymous with wisdom or goodness, and it is dangerous to give power to people merely because they are born in aristocratic families The experience of aristocrats may not suit the times, and actually it may be synonymous with reaction

2 *Conservative and Reactionary* Aristocrats generally have sympathy for people of their own rank and status, and have little sympathy for the common man This explains why aristo crats are selfish and are nervous of having any radical changes Dyed-in-the-wool aristocrats are generally reactionaries, and are unwilling to move with the times History bears witness to the unwillingness or reluctance of aristocrats to change their attitude towards society even when times changed quickly

3 *Want of Integrity* It is also wrong to assert that aristocracy and good character go together Many examples can be given to show the want of integrity in aristocrats and the inefficiency and corruption in governments run by them

4 *Against Democracy* Aristocracy stands for privileges for few, and these are contrary to liberty and equality Aristocracy little value in modern times, in which new values have

evolved The values of aristocracy are antagonistic to the values of democracy Aristocracy tries to uphold distinctions between one class and another, whereas democracy wants to do away with invidious political, social, economic and other distinctions

5 *Rigid* Aristocracy is rigid, and it is unsuitable to meet the needs of a dynamic society

MAIN POINTS

1 **Monarchy** Supreme power in the hands of hereditary monarch Various factors favourable to growth of monarchy Absolute and limited or constitutional monarchy Hereditary and elective monarchy

2 **Evaluation of Monarchy** Merits—1 Acts promptly 2 Beneficial 3 Good for primitive societies Demerits—1 Inefficient 2 Oppressive 3 Evil of heredity 4 No place for worthy men

3 **Aristocracy** Rule of nobles Birth wealth and experience Setback for monarchy and aristocracy with rise of democracy and socialism

4 **Evaluation of Aristocracy** Merits—1 Emphasis on quality 2 Curbs passion 3 Stability Demerits—1 Wealth not synonymous with wisdom and goodness 2 Conservative and reactionary 3 Want of integrity 4 Antidemocratic 5 Rigid

CHAPTER 40

DEMOCRACY AND ITS RIVALS

We live in an age in which democracy enchants people It is politically fashionable to speak of it, and sing about its charms

A Definition and Meaning of Democracy

Conveys Various Meanings and Ideas The term 'democracy' is known to all, but perhaps no one can define democracy in a sentence or two Here is a term, which is apparently easy to understand, but actually very difficult to be defined and explained clearly and comprehensively Though we are familiar with the term 'democracy', we cannot present all the implications of democracy in a single sentence definition Democracy is a multi-headed concept and a compound of several elements viz political ideals, economic and social forces, ethical principles, a form of government and a way of life

Much has been written on democracy, perhaps few subjects in political science commanded such an attention of a very large number of thinkers as democracy Yet, it is not easy to have a very clear image of democracy for democracy does not connote the same ideas to all, and it has been interpreted differently by different writers It stands for many ideas and principles, and has various facets "Democracy has come to mean so many different things, some very hostile to each other that it needs careful analysis if misunderstanding and idle controversies are to be avoided, and if the possible and quite legitimate differences of connotation and its very varied institutional arrangements are to be revealed "[1] C D Burns says in his *Democracy* (1935) "Democracy is a word with many meanings and some emotional colour It is not an algebraical symbol, but a flag or the call of a trumpet for some and for others an obsolete mythology, which has undesirable connections with capitalism and imperialism "[2]

1 H Finer *The Theory and Practice of Modern Government* (1960) p 67
2 Op cit p 9

Some regard democracy as a form of government, while others go to the extent of saying that it is also a way of life

The idea of democracy has been expanded steadily in recent times What was originally a political principle has been enlarged to include social, economic and ethical ideas

Political and Economic Significance To some, democracy has meaning in the political field only, and it stands for the rule of the majority, whereas to others democracy goes beyond the frontiers of politics and enters the realm of economics too Here the emphasis is on adequate economic opportunities

Society with no Distinctions and Form of Government Democracy, it is claimed, stands for an egalitarian society, in which the individual has equal status with others "The word democracy is unfortunately used in popular discussion, and indeed in much political literature, in two quite different senses as designating a society or community in which class distinctions are absent or relatively unimportant, and as designating a distinct form of government"[1] Here the emphasis is on the doctrine of equality

Democracy People's Democracy, Controlled Democracy and Guided Democracy E M Burns says in his *Ideas in Conflict* (1960) "Few words have been more loosely and variously defined than democracy It has almost literally meant all things to all men"[2] The confusion is increased, because not only Western democracies, but even communist countries like the USSR and Communist China also speak of democracy Communists argue that perfect democracy is found only in their state, while Western countries have democracy in which there is exploitation by capitalists and imperialists It is interesting to note that Ayub Khan introduced "basic" or "controlled" democracy in Pakistan, while Sukarno gave "guided" democracy to Indonesia Here it has to be noted that Western democracy based on liberal ideas and communist "democracy" are diametrically opposed to each other

Government of the People The term *democracy* which is drawn from the Greek words *demos* (people) and *kratos* (government) means power or government of the people Does it mean a government run by all the people or by a few people only?

1 W F Willoughby *The Government of Modern States* (1936) p 31
2 Op cit. p 4

In ancient Athens, in the days of the great champion of democracy Pericles, all citizens took an active part in the governance of the city-state Hence, it was direct democracy Direct democracy is not possible in modern states, having large territory and population All the people in a modern democratic state do not take an active part in the affairs of the government The people elect their representatives who are supposed to think, speak and act on behalf of the people Hence, in modern times, there is indirect or representative democracy, which means government by elected representatives of the people

Political Parties and Rule of the Majority An examination of the actual working of democracy in states like England and India reveals that democracy stands for a rule of the majority with adequate safeguards to the minorities There are political parties, one of these comes to power by virtue of the fact that it has captured a majority of seats in the legislature This means democracy is a system of government based upon the principle of majority rule In modern states, political parties have come to stay, and have become indispensable In all the democracies of the world, there are political parties The party which is the most popular, most powerful or that which can command very vast resources is able to form the government In a cabinet system of government, the real executive, that is, the council of ministers consists of members drawn from the majority party in the legislature In India, at the centre, and in the states, ministers are members of the legislature A partyless democracy, though desirable is not feasible

Communist View Communists speak in terms of a democratic state as against a democratic government To them, a democratic state is a *socialist* state, in such a state there is no *exploitation*, and there is the *dictatorship of the proletariat* "Marx declared and thought himself a democrat He used the name democracy and ended by stating clearly enough what he meant by it In the *Communist Manifesto* of 1848 Marx had limited himself to asserting that it was the task of the proletariat as a dominating class to arrive victoriously at democracy—a democracy referred to as an 'association in which the free development of each is the condition for the free development of all' "[1]

In Soviet Russia, Lenin, Stalin, and others ruled ruthlessly with an iron hand In Communist China, Mao Tse-tung ~

1 G Sartori *Democratic Theory* (1962) p 417

others claim that they have succeeded in establishing "New Democracy" Whatever may be the professions of communists, the actual working of communist governments shows that communism is totally anti-democratic Mao, Lin Piao and other communist leaders in China imposed totalitarian control and regimentation of life, and in recent years the Red Guards, the instruments of their new Proletarian Cultural Revolution let loose a veritable hell on the people

While democracy, as a true democrat understands it, does not countenance a violent approach and respects the dignity of the human personality, communism advocates the use of violence to pull down the capitalist structure of society, and does not value human dignity

Lincoln's Simple and Easy Definition Abraham Lincoln gives a very simple, easy and popular definition which, every high school boy knows According to him, democracy is government of the people, by the people and for the people Power is vested in the people and hence it is the government of the people, the government is run by the representatives of the people, and the government aims at promoting people's welfare A democratic government as conceived by Lincoln is not something which is apart from the people, the government *is of the people*, and it is not alien to the people It exists for their sake, and meets their needs Ministers are elected by the people, and are responsible to the people Ministers are the servants of the people and not their masters

Merriam's Ideals of Freedom and Abundance Merriam underlines the importance of people's welfare in explaining democracy He enthusiastically spells out the ideals and benefits of democracy to the people in modern times "In defending democracy Merriam wrote with evangelical zeal Transformed in accordance with modern intellectual discoveries, the ideal, he maintained, would have virtually limitless possibilities for leading mankind into a Promised Land of Freedom and abundance Under the aegis of democracy, science would have the power to lift the burdens of war, famine, poverty and disease from the brows of man"[1]

Roosevelt's Emphasis on Democracy as a Positive and Constructive Force F D Roosevelt enlarges the idea of demo-

1 E M Burns *Ideas in Conflict* (1960) p 23

cracy in upholding the concept of social welfare To him, democracy "was not a mere matter of universal suffrage and unhampered expression of the popular will It must be a positive and constructive force in the daily lives of the people, and provides not merely for political but economic needs If men were forced to choose between liberty and bread he asserted they will choose bread "[1] The people of the United States of America have not only spoken eloquently on the great ideals and principles of democracy, but have also showed it as a positive and constructive force Americans reaped a rich harvest of democracy, a form of government and a way of life in terms of principles and material benefits However, it is true that few democratic governments in the world have come up to the description given by Lincoln and Roosevelt, and democracy has remained only on paper

Mill's Emphasis on Elected Deputies According to John Stuart Mill, democracy is a form of government in which "the whole people, or some numerous portion of them, exercise the governing power through deputies periodically elected by themselves" Here, the emphasis is on the political aspect of democracy

Cripps Stresses on Freedom of Expression Sir Stafford Cripps lays emphasis on freedom of expression He says "Democracy is a system of government in which every adult citizen is equally free to express his views and desires upon all subjects in whatever way he wishes, and to influence the majority of his fellow citizens to decide according to those views and to influence those desires"

Panikkar on Essential Freedoms K M Panikkar speaks of essential freedoms in a democracy "Democracy in fact is not merely a form of government it is a complex of social, economic and political factors, affecting the relationship of the state to the individual, guaranteeing essential freedoms, personal liberty, freedom of expression, of organization and of governing activities "[2]

Mac Iver's Stress on Who and Why of Governing Mac Iver while stressing the importance of who and why of governing observes "Democracy is not a way of governing whether by majority or otherwise, but primarily a way of determining who shall govern and broadly, to what ends"

Maxey on Search for a Way of Life C C Maxey's definition on democracy is of great significance at present, as he

1 Ibid p 20
2 *The Afro-Asian States and their Problems* (1946) p 26

of a search for a way of life of freedom and minimum coercion "Democracy as reinterpreted in the twentieth century is thus seen to be more than a political formula, more than a system of government, more than a social order It is a search for a way of life in which the voluntary free intelligence and activity of men can be harmonized and coordinated with the least possible coercion, and it is the belief that such a way of life is the best way for all mankind, the way most in keeping with the nature of man and the nature of the universe "[1]

Seeley on Everyone's Share In the words of Seeley, democracy is "a government in which everyone has a share" A democratic government gives opportunities to all to take part in political matters Every citizen has the right to vote and also the right to stand for election

Democracy Form of Government and Way of life Democracy, as stated above, is not only a form of government, but also a way of life Popular sovereignty and freedom to live as one pleases go together Under a democratic government, the dignity of the human personality is recognised Every individual is free to live in his own way, think freely as he likes express his opinion freely, move about freely, enjoy the company of people he likes and become a member of associations and parties of his choice In a democratic country, the individual enjoys liberty and equality He is given certain minimum rights called the fundamental rights, on which nobody can encroach He can follow a religion of his choice speak the language of his choice, and have the culture to which he is accustomed Thus, not only in the political sphere, but in other fields too the individual enjoys complete freedom

In a democratic way of life, much importance is given to social welfare "The function of interpreting democracy during the crisis of World War II was performed by Roosevelt's Vice-President Henry A Wallace Wallace conceived of democracy partly in terms of social welfare and partly as a defence of the dignity and rights of the individual "[2] The principle of democracy as a form of government and a way of life is being respected in countries like Britain and the USA "Democracy is a theory of society as well as a theory of government We shall have to

1 *Political Philosophies* (1936) p 690
2 E M Burns *Ideas in Conflict* (1960), p 21

face the paradoxical fact that the purpose of the government of a democratic society is so complex and subtle, so much is asked of it, that, democratic machinery sometimes seems more and more inadequate for this tremendous task."[1] India, which accepted Western democracies as models chose the democratic as against the totalitarian path The Constitution of India underlines the great importance of freedom and social welfare

Government by Consent or Public Criticism Democracy is sometimes regarded as government by consent or by public criticism In a democracy, one man or a group of men cannot rule as they please without the consent of the people, but governmental machinery has to move according to the wishes of the people and for meeting the requirements of the people Government *has to be responsive to puplic opinion, and in the light of genuine* and responsible public criticism it may have to change its course for the benefit of the people An unpopular and inefficient government, which has lost the confidence of the people is likely to be overthrown by the pressure of public criticism and through the ballot box "Democracy viewed as non-autocracy denotes a political system characterised by the absence of personal power, and more particularly a system that hinges on the principle that no one can proclaim himself ruler, that no one can hold power irrevocably in his own name"

A democratic government is not an engine of oppression or the arbitrary tool of a few people, but a machinery in which the representatives of the people act according to the wishes of the electorate Democracy or government by consent implies the right of free discussion and criticism to all the people, the right to form various parties and associations for propagating ideas freely the freedom of the press, a liberal suffrage, periodical elections, absence of privileges, full enjoyment of liberties and equality before the law In a democratic state people can criticise the government through various agencies of public opinion No democratic government can continue to exist by continuously defying public opinion The activities of a democratic government come under the fire of criticism of the opposition in the legislature "Modern democracy stands or falls with the right of discussion and with the existence of a recognised opposition

1 A D Linday *Th Democratic State* (1959) pp 249-50
2 G Sartori *Democratic Theory* (1962) p 151

That implies that the sincere expression of differences is essential to political wisdom "[1]

Democracy shows hospitality to all kinds of ideas, and it is possible in a democratic state for several parties to function freely In India, for instance, there is scope for plurality of ideas, and several parties exist Those who say, that parties like the communist party should be banned in India, do not realise that one of the basic principles of democracy is freedom for all individuals and associations including political parties to function freely

In authoritarian and totalitarian states, people have to believe in ideas "manufactured" by those in power There can be only one party in totalitarian states like Nazi Germany, Fascist Italy, Soviet Russia and Communist China

Democracy in Internal Affairs Democracy goes beyond the frontiers of a democratic country to enter the realm of international affairs In the international sphere, democracy stands for the principle of self-determination and for the regulation of inter-state relations on the basis of justice and season Democracy is against aggressive nationalism, imperialism and war

Conclusion regarding Basic Principles of Democracy With reference to the foregoing paragraphs, we may draw the following basic principles by way of conclusion on the meaning of democracy

(1) Democracy allows all individuals the right to speak, critici e and disagree with others

(2) It allows plurality ideas and of ideologies, and stands firmly on the principle of tolerance

(3) It is wedded to methods of persuasion and peace both in the internal and international spheres

(4) It is clearly opposed to coercive methods, even if they are for the social good A government cannot be called democratic, if it uses illegitimate coercion in the name of social welfare

(5) It upholds the dignity of the human personality, and gives various kinds of rights to the individual

(6) It is built on the foundations of liberty and equality

(7) It is a form o t government in which sovereignty is vested in the people

(8) In actual practice, democracy means rule by the majority with full safeguards for the rights of minorities

1 A D Lindsay *The Modern Democratic State* (1961) p 134

(9) It is government by the representatives of the people, and these are elected by the adults, who are free to vote as they please without being coerced or pressurised by anyone

(10) A democratic government functions strictly according to the principles of a constitution (whether written or unwritten), which has been accepted by the people

(11) A democratic government gives adequate opportunities to all, and makes everyone feel that his existence is recognized, and that full justice is being done to him

(12) It is a government aiming at the welfare of all

(13) Democracy provides for a change in government according to constitutional principles, and it is against any change by violent or revolutionary means

Presumptions in a Democratic State Philosophically speaking, democratic theory is based on certain presumptions

(1) The individual is rational Every person has the capacity to think over the general problems of the community, and is capable of taking decisions

(2) The human being is fallible, and is likely to commit mistakes

(3) Society is democratic, and invidious social distinctions are absent Social relations are democratised

(4) There is no conflict between the individual good and the good of the community

(5) Individuals always rule out the use of physical force or violence in solving their problems

B Growth of Democracy

In Ancient Greece and Rome "The origin of this doctrine (of popular sovereignty) is to be found in the early Greek and Roman republics In a very true sense their governments may be said to have rested on this principle "[1] Democracy in its direct form was known to the ancient Greeks "The term 'democracy' was coined twentyfive hundred years ago It first appeared in Herodotus' History in conncection with the notion of *isonomia*, equality before the law From then on even though it was eclipsed for a very long interval, it has remained part of the political vocabulary "[2] In ancient times, democracy could not succeed on a vast scale In ancient Greece, it was found only in city states,

1 W F Willoughby *The Government of Modern States* (1936) p 74

2 G Sartori *Democratic Theory* (1962) p 250

and here too it was restricted to citizens only (Women and slaves were not citizens, and had no share in democracy) In the Roman empire, the will of the emperor counted and not the will of the people in the field of actual governance, though in theory the emperors were elected by the people, who were *represented* by him

In Ancient India In ancient India, some states followed the principle of *swarajya* but by and large democracies had no hope of survival, particularly when powerful imperial rulers rose Except, perhaps a few small exceptions democracy could not *flourish in ancient Indian states*

In Medieval Age With the fall of Rome and the coming of the dark age, democracy had no scope at all In the feudal structure of the medieval period the barons were very powerful, and people had no power In the context of feudal anarchy and oppression, it would be a luxury to speak of democracy In early modern times in Europe, in spite of movements like the Renaissance, democracy could not rise as conditions were favourable for absolute monarchy

In Modern Times The abuses of absolute monarchs in European countries brought about a strong reaction against tyrannical and oppressive rulers The new ideas given by philosophers like Voltaire and Rousseau weakened the hold of monarchs over their subjects In England, the authority of the Stuart kings, who were ruling by the theory of Divine Rights was challenged by Parliament As the Stuarts did not change their autocratic attitude and policy, Parliament drastically reduced their power with the aim of making monarchy constitutional Ultimately, parliamentary democracy triumphed England showed the path of parliamentary democracy to other countries In England, democracy was not established by a *single stroke of a band of revolutionaries* The British people proceeded slowly and cautiously mile after mile along the road of democracy with the help of parliament England set up democratic traditions, which became the envy of countries which valued democracy as a form of government and a way of life British colonies in America revolted against the autocracy of England and won their freedom and independence The USA provided a fertile soil for the principle of popular sovereignty and individual rights Americans drafted a written democratic constitution, and like England chose to walk along the democratic

path, but unlike England they had a federal and republican consti tution In France too, people abolished monarchy and set up a republic France also chose the democratic path

Golden Age of Democracy In the twentieth century, democracy seemed to have entered its golden age Among European peoples, democracy became almost a passion Countries like Britain and the USA said that World War I (1914–18) was fought to safeguard democracy and uphold the principle of self-determination After the War, new states were carved out, and everywhere it became a fashion to establish democratic forms of government Countries suffering under the imperialist yoke wanted to free themselves and establish democratic institutions "Many of the transformations that arose from the upheavals of the World War seemed to strengthen the traditional faith in some sort of heroic law of democracy Popular revolutions, peaceful or bloody, swept away—by assas ination, deposition, or forced abdication—a Tsar, a sultan, three emperors and nearly a score of minor kings, grand dukes, dukes and princes"[1] But, the golden age of democracy came to an end soon, and democracy was facing the rough seas Unfortunately, the developments in the inter-war period (1919–39) were very unfavourable to the very existence of the new democracies, and dictators, who capitalised on the misfortunes of the people succeeded in making dictator ship a great success

After the end of World War II, many countries in Asia and Africa became independent In 1947, India was granted complete independence, and in 1950, she became a Sovereign Democratic Republic In running democratic institutions, so far at least, India has done decidedly better than countries like Pakistan and Indonesia In Pakistan, Ayub Khan's military dictatorship in the garb of "Controlled Democracy' lasted for 10 years (1958–68) Early in 1969 Ayub was forced to step down, and power fell into the hands of the army chief Yahya Khan In Indonesia, President Sukarno's dictatorship worked under the label "Guided Democracy" (During 1966–67 Sukarno was stripped of all his powers)

C Forms of Democracy

As stated already, democracy has two forms Direct and Indirect

1 F W Coker *Recent Political Thought* (1957) p 303

(3) Direct democracy can succeed only in very small states, and it can never hope to succeed in the large territorial states of the modern times

2 Indirect or Representative Democracy

Meaning In states like Britain, the USA, France and India, there is indirect or representative democracy Representative democracy is of two forms Presidential and Parliamentary "A representative government, we have seen, is that form of government, which results where a legally sovereign electorate, instead of itself attempting to act as the directing head of the machinery of government brings into existence an organ or organs to represent and act for it in this capacity"[1] Modern states are very large, and the population is too large and unwieldy to have direct democracy Conditions in modern times make the introduction of direct democracy an impossibility

Defects Representative democracy suffers from serious defects

(1) Very few people take real interest in political affairs Only a few enterprising and keenly interested persons study political questions It is only these men and women who stand for election

(2) Most of the people have practically no interest in government affairs This is particularly true in the case of underdeveloped countries Owing to this, the few people, who become leaders can exercise power as they please and exploit the ignorance of the people

(3) The art of government at present is a thousand times more difficult and more complicated than what it was once upon a time Governments now have to face many knotty problems, which require great technical skill and high calibre

(4) It is not possible for every individual in a state to be the President or Prime Minister or Member of Parliament The people have to rest satisfied as the mere electors of leaders to run the government for them

The drawbacks in representative democracy have made states like Switzerland have a mixed type of democracy having features of direct and indirect types of democracy Even in such countries, only devices like the Referendum, the Initiative, the Plebiscite and the Recall have been introduced (See Chapter 50 for these devices) Participation of all citizens in governmental affairs is not possible today

1 W F Willoughby *The Government of Modern States* (1936) p 94

D Conditions Essential for the Success of Democracy

The Best, but the Most Difficult form of Government Democracy is regarded as the best form of government, at the same time, it is the most difficult form, and certain minimum conditions are essential for its successful working In certain countries, democracy has been a great success, while in others it walks like a cripple Other forms of government do not require so many essential conditions for their successful working

Taking the institutional side of democracy, we have to observe that the following conditions are essential for the success of a democratic government

1 **Thirst for Democracy** Democracy can succeed only in states, in which the vast majority of the people have a genuine thirst for democracy as a form of government and a way of life, and desire to have the principles of liberty and equality A passion for a democratic form of government creates a very strong basis of democracy, and enables people to overcome hurdles in their path easily The feeling among the people that the government in their country should function according to their wishes, and not as desired by few people at the top will prepare a good ground for democracy In countries like England and the USA, the people had an intense urge to participate in the *affairs* of the government they refused to be led by the nose, and themselves wanted to have a say in governmental matters If a strong desire for democracy can be taken for granted, success becomes easy The desire for democracy rises from the "mental habit and temperament of the people' H V Kamath aptly says 'It is well to remember that democracy has worked fairly successfully only in those countries— ome in Western Europe, and some others in North America—where there has been a tradition of ethical liberalism, a strong middle class, widespread education, where civil liberties have been cherished and where sustained regard for political dissent exists"[1]

2 **Eternal Vigilance** Democracy needs eternal vigilance A democratic form of government established in a state cannot last long, if the people are not prepared to protect it at all costs with their eternal vigilance Democracy is not something, which can be imposed from outside on unwilling people It is something which is born within the minds of the people of the country and for

1 *The Illustrated Weekly of India* (Sept 10 1961) p 45

which people are ready to pay an adequate price Only when people realise the value of democracy, they are prepared to protect it from internal and external dangers If people slumber, autocracy or dictatorship may rise, or a foreign power may commit aggression and impose imperialism More important than the armies, navies and air forces maintained by a state is the spirit of the people to cherish the principles of democracy and keep alive the flame of democracy

3 **Conflict of Ideas, Cooperation, Sympathy and Understanding** Democracy can thrive in an atmosphere of peace People should eschew violent methods, and settle their controversies peacefully Democracy believes in a conflict of ideas as against violent conflicts Democracy can be successful, if people have sympathy, for one another and try to understand one another Sympathy, and understanding will build the requisite level of tolerance so very essential for the smooth working of demo cratic institutions "A democracy is unique in recognising the political expression of such conflicts as legitimate and in providing for their peaceful adjustment through the negotiations of politics, as an alternative to their settlement by force of fiat"[1] People *must undertsand that they have to solve their problems through* arguments and discussion and not through violence Coercion has no place in a democracy "Democracy implies, then, that every government has a duty to seek the maximum of voluntary co-operation, to explain its purposes and methods, to educate the governed, to appeal indefatigably to whatever element of good will can be found in them, and never to resort to coercion unless persuasion proves impossible"[2]

4 **Public Consent and Criticism** A democratic form of government is based on public consent and criticism Government without public consent and criticism cannot be democratic If government deviates from the right path, people should criticise it and force it to go back to the path of rectitude People should be public-spirited, and should be ready to expose a bad government Countries in which people lack the necessary qualities will be incapable of having democracy, and even if the leaders prepare a democratic constitution, it will remain a dead letter In modern

1 H B Mayo *An Introduction to Democratic Theory* (1960) p 219
2 Y R Simon *Philosophy of Democratic Government* (1951) p 194

democracies, political parties work on the basis of the principle of consent "In practice democracy is a form of government in which the organized public power is maintained by a tacit agreement between groups who want to use that power for their advantage—an agreement not to fight if each can have a turn"[1] Political parties in the opposition should be vigilant, and criticise the government, whenever it is necessary

5 **Intelligent, Educated and Well informed Electorate** Democracy succeeds only where the electorate is educated and well informed As democracy is people's government people should be educated, and should be fully aware of their rights and obligations An educated and enlightened electorate will choose its leaders intelligently, will cooperate with the government fully, and when necessary, criticise the leaders An intelligent and educated electorate cannot be misled by the government, which will be always forced to feel the pulse of the people That education is an asset to democracy has been amply borne out in advanced democracies like Britain and the USA When there is widespread literacy and education, good leaders and representatives of the people emerge Ignorance and illiteracy are the worst enemies of democracy

6 **Good Leadership** Good leadership is another condition essential for the smooth working of democracy England and the USA with their far-sighted, enlightened and effective leadership could easily make a success of democracy In backward countries, poor leadership is a great stumbling block Good leadership should work hand in hand with an educated electorate to make democracy meaningful Great leaders like George Washington, Abraham Lincoln Winston Churchill, Jawaharlal Nehru and Lal Bahadur Shastri can lead democracies to success

7 **Free and Fearless Press** Another important condition is the existence of a free fearless and unfettered press, which vigilantly guards democracy The press places before the people facts, figures and its own opinion and when government errs, it criticises it without fear or favour It acts in a responsible manner and creates a healthy public opinion It informs and enlightens the people, and enables them to understand the problems of democracy and discharge their duties and responsibilities effectively People anxiously watch how the press reacts to government policies from time to time and those in power see that they do

1 C D Burns *Democracy* (1935) p 49

not come in for criticism How a democratic government functions can be known from the press A great democracy has a really great press, which is free fearless and independent

8 **Reasonable Standard of Living** Democracy can succeed, when a country has a reasonable standard of living, and people by and large are free from poverty and all its evil corollaries The economic conditions prevailing in a country have much to do with democracy Prosperity of the people is conducive to the growth of democracy, but poverty is the worst obstacle The poverty of the masses of people keeps them uneducated, backward and timid Poverty-stricken people are more concerned with their bread than with anything else, and democracy is a luxury to them In very backward countries in which most of the people are in the jaws of poverty, a few rich people at the top can capture power and wield it as they like, and there is no scope for democracy *Only a satisfied people, free from poverty and* allied 'diseases' can devote adequate time to study problems of democracy and make it a success

9 **Good Constitution** Democracy will succeed if the constitution clearly spells out democratic principles, and ensures that sovereignty is vested in the people E B Schulz gives the requirements of a democratic type of government

(1) popular control of key officials,
(2) a liberal suffrage
(3) willingness to adhere to the rules of the democratic process,
(4) freedom of speech, of assembly, of association and safeguards against arbitrary imprisonment,
(5) adequate sources of information [1]

E Institutional Requirements of Democracy

Democracy needs certain institutions for expressing itself, if it is to be real and effective The most important institutional requirements of democracy are (1) a written constitution (2) a legislature, which reflects the wishes of the people, (3) a fearless and independent judiciary (4) political parties functioning on sound lines, (5) an effective opposition, (6) local self-governing bodies, (7) a free and independent press and (8) an educated and politically conscious electorate

1 **A Written Constitution** *All* organs of government in a democratic state should exercise their power in accordance with

1 *Essentials of Govemmen* (1961), p 218

the provisions of a written constitution, and there should be no scope for the exercise of arbitrary power by anyone The written constitution based on democratic principles will give protection to the minorities All authorities in the state will have to function within the four corners of the constitution (Even though England does not have a written constitution, she has democracy But here is a unique exception)

2 A Legislature Another institutional requirement is a legislature with members directly elected by the people on adult franchise The representatives of the people will discuss matters pertaining to the people in the legislature, and will safeguard their interests The legislature will reflect the opinion of the people, and will pass laws for the good of the people The legislature can go far in making a success of a democratic form of government

3 A Judiciary A fearless, impartial and learned judiciary is another institutional requirement of democracy A democratic government is expected to uphold the rule of law as against arbitrary rule All individuals in the state are bound by the law Learned, impartial and fearless judges can settle disputes according to the law, mete out even handed justice, and protect democratic principles

4 Political Parties Political parties constitute another essential institutional requirement of democracy A democratic constitution (as of India or Britain) is silent about political parties, which are extra-constitutional in growth but taking realities into consideration we have to say that no democracy can function without political parties But political parties should be well-organized, and they would work strictly on democratic principles No political party should do anything that is calculated to undermine the basic principles of democracy On the contrary, they should uphold democratic principles, and guide people to conduct themselves in a democratic manner

5 An Effective Opposition Another institutional requirement is an effective opposition party A party, which is in power is likely to develop dictatorial tendencies unless it is offered an effective opposition in the legislature An effective opposition can emerge, when there is a good two-party system as in Britain If the ruling party misuses power and acts contrary to democratic principles, the opposition party should curb it or overthrow it, and form its own government in a democratic manner The two

political parties, however, should strictly follow the rules of the political game bearing in mind national interests and the interests of democracy as a form of government and a way of life

6 **Local Self-Governing Bodies** Democracy to be real and effective should give the maximum scope to the people to express themselves through numerous local self-governing bodies functioning on democratic lines All individuals cannot aspire to find seats in the national parliament, but many of them can aspire to find places in local self-governing bodies and serve the cause of democracy

7 **A Free Press** A free, fearless and independent press, which can effectively mould public opinion and act vigilantly as the watchdog of democracy is another institutional requirement The success of democracy depends much on a press, which relentlessly works for liberty, equality, justice and all other principles associated with democracy

8 **An Enlightened Electorate** No democracy can function well unless the electorate, that is, those who exercise franchise know how they should deal with their problems and choose the right type of leaders A well informed, educated and enlightened electorate is one of the surest guarantees of democracy

All these institutional requirements are found in the highly advanced democracies of the West, and therefore democracy has a proud record in them In several countries having democratic governments, all the e institutional requirements are not present, and even if they have been provided, they do not function satisfactorily

F Merits of Democracy

Why Democracy is Superior to Other Forms of Government Among the various forms of government, with all its defects, democracy has been regarded as the best Democracy upholds certain values, which put it on a plane superior to that of other forms of government H B Mayo in *An Introduction to Democratic Theory* (1960) mentions the specific values of a democratic system

(1) the peaceful voluntary adjustment of disputes,
(2) ensuring peaceful change in a changing society
(3) orderly succession of rulers
(4) the minimum of coercion
(5) diversity,

(6) attainment of justice,
(7) promotion of science,
(8) freedom etc [1]

A classical case for democracy has been prepared on certain grounds

(1) *Precautionary* Democracy takes into consideration the wishes and sufferings of the people

(2) *Psychological* Democracy seeks the co-operation of all in solving the problems of all, it lays greater emphasis on co-operation than on efficiency

(3) *Educational* Democracy provides training to the people in citizenship and government

(4) *Moral* Democracy is justified on moral grounds, as it relies on the individual's initiative and development of personality

(5) *Practical* Democracy is of practical use, as it develops the spirit of patriotism and eliminates the risk of revolution

It is conceded that from the efficiency point of view, one can cavil at it seriously Moreover, democracy requires several conditions for the fulfilment of its aims If most of the requisite conditions are atisfied, democracy can have several merits

Merits The following are the merits of democracy

1 Protects Interests of All Democracy protects the interests of the people A monarchy or an aristocracy may not know where the shoe pinches, but a democratic government is bound to know where exactly the people suffer This is because those in power in a democratic government are the representatives of the people, who can know where the shoe pinches " the end of democratic government is to minister to the common life of society, to remove the disharmonies that trouble it it (common life) can only be known by those who live it It is their shoes that pinch and they only who can tell where they pinch No doubt the ordinary voter has the vaguest ideas as to what legislative or administrative reform will stop the pinching of the shoes "[2] Democracy is not expected to serve the interests of a particular individual or a class, but to serve the larger interest of all

2 Upholds Human Dignity Democracy respects the dignity of the human personality Every individual, however insignificant

1 Op cit pp 218-41
2 A D Lindsay *The Modern Democratic State* (1951) p 270

he may be, is regarded as a quantity not to be [illegible] Every adult is a voter, that is, one who chooses h[illegible] in government The importance of his personality is [illegible], and he is allowed to express himself freely and act [illegible] man has a voice in the government, he can [illegible] against the government, and can suggest ways to improve [illegible] In forms of government, which are the rivals of [illegible], the individual is either ignored or his person[illegible] For instance, in a totalitarian dictatorship, the [illegible] as a tool of the state, and the dignity of his [illegible] under foot "An asserted view of democ[illegible] is regarded as an end in himself and not [illegible] to be manipulated for the benefit of a [illegible] the individual is enhanced, a high [illegible] freedom and every person, knowing [illegible] wield ultimate control over gove[illegible] of mind that is dominated by no[illegible] ing, present and future opportunities [illegible] fully protects the individual and [illegible] person against the law of the [illegible] freedom of thought and expression [illegible] arrest He is guaranteed cert[illegible] essential for the developme[illegible] monarchy or a dictatorship [illegible] dignity of the human being [illegible] USA and India attach g[illegible] individual

of government A D Lindsay makes a significant observation on democracy in *The Modern Democratic State* (1959) "Democracy is a revolutionary form of government For its aim is to find a place for continual change within government Its law exists to foster freedom its force exists to protect law It is an organisation to preserve, leave room for, these precious things of the spirit, which in their nature cannot be organised"[1] In an absolute monarchy or a dictatorship, the individual may not be able to enjoy liberty and equality Government may coerce him to act against his will, it may discriminate against him and deny him equality In France under the Bourbons and in Germany under Hitler, people painfully realised the absence of liberty and equality

4 **A Responsible Government** A democratic government is responsible to the people It shall not act arbitrarily or ride roughshod over the wishes of the people While in an absolute monarchy or a dictatorship government may regard itself as above reproach, a democratic government has to be responsive and responsible to the people A democratic government, whether parliamentary or presidential must broadly *speaking respect the wishes of the* people If rulers in a democratic state misbehave and act contrary to the wishes and interests of the people, they will be pulled up by the people, and the various agencies of public opinion will express themselves against them If rulers wish to continue to be in power, they must act as the servants of the people and serve in public interest In a highly advanced democracy, no minister can afford to get away with impunity after having acted arbitrarily The opinion of the people has great significance in a democracy In 1963 Profumo, the war minister in England had to resign not so *much for his love affairs with* Christine Keeler (a woman of easy virtue) as for telling a lie to Parliament, to which he was responsible

5 **Trains People** Another great merit of democracy is that it encourages people to come forward in governing themselves, and thus trains them in the art of government In a democracy, the people can participate in political and other activities, and have scope to learn how to run their own institutions A democratic government functions in the open, and sovereignty is vested in the people It is not like an aristocracy, a monarchy or a dictatorship aloof from the people *People are in* the democratic govern

1 Op cit p 266

ment Though all the people cannot reach the posts for which they aspire, they are taken into confidence by the government, which belongs to them No government post or office is the exclusive monopoly of any individual or class, and any body can aspire for it, provided he has the necessary qualification An authoritarian government teaches the people implicit obedience and expects them to obey its laws blindly, even if they are bad It never encourages them or gives them any training in self-government On the contrary, *in a democracy, the government is of the people, all* are associated with it, and all get benefits from it No individual, however humble he may be, is barred from participation in the political affairs of the country People learn to solve their own problems and cultivate the art of self-government "Participation in the control of public affairs removes the individual from narrow egotism and enlarges the range of his interest and imagination"[1] In fact, he is encouraged to come forward, study political questions, and make his own contribution to the state " the greatest glory of democracy in the opinion of its votaries does not flow so much from its own inherent excellence as a form of government, as from its influence in elevating the masses of the people, developing their faculties, stimulating interest among them in public affairs, and strengthening their patriotism by allowing them a share in its administration"[2]

6 **Promotes People's Welfare** Democracies in the modern times are guided by the principle of the welfare state Much can be done by a democratic government, if democracy enters the economic field There was a time, when democracy stood for political democracy only Now the concept of democracy is understood differently Democracy to be meaningful should do economic justice to the individual and should undertake social welfare *schemes Governments in Britain, the USA and other democratic* countries have done much to promote the people's welfare No monarchy or aristocracy has done so much in the interests of the people as some democracies have in recent years While it is true that even authoritarian states have taken steps to promote the people's welfare, it must be noted that only a democracy can serve the people's welfare *without destroying the dignity of the human personality* India as a democracy is wedded to the principle

1 F W Coker *Recent Political Thought* (1955) p 358
2 J W Garner *Political Science and Government* (1955), p 358

As regards the abuse of the principle of equality, it may be noted that the evil can be remedied The principle of equality is not to be abolished because it has defects Equality as a complement of liberty is quite essential for democracy

Regarding the evil of party politics, it has to be conceded that in this imperfect world democracy can function only on a party basis It is too early to speak of a partyless democracy Even though political parties are evils, they are quite necessary

The malpractices about which Bryce speaks in connection with law-making are real in several democracies

Though Bryce himself admits that all forms of government suffer from the first three evils, there is no reason why they should not be criticised If democracy is to be superior to other forms of government, it should not have in it evils found in other forms As Bryce mentions, the last three evils are particularly associated with democracy

Defects The following are the defects of democracy

1 **Inefficiency** Democracy is criticised as an inefficient form of government, in which ignorant and worthless men wield power to the detriment of the larger interests of the state Several democratic governments bear the stamp of gross inefficiency, and they are totally incapable of achieving anything that is worthwhile to the people As men in government soaked in inefficiency move from one blunder to another tax-payers feel that democracy is the worst type of government Men of calibre, competence and integrity are hardly rewarded and inefficient and dishonest men need not fear dismissal from their government posts Democracies "distrust natural leaders and are a prolific breeding ground for agitators, flatterers, bosses and demagogues Again they are said to be wasteful and extravagant they tend to level society down rather than up and they are indifferent to if not actually hostile to, the advancement of education, science literature and art"[1]

Democracy, as we see it today as based on the party system, provides scope to the inefficient people to rise Competent men who desire to keep away from the rough and tumble of politics are in the backwaters Third-rate, corrupt and inefficient men may be able to capture seats in the legislature by virtue of their glib-tongue, bank balance and support of a strong political party Inefficient men may secure fat-salaried jobs owing to their contacts

1 Ibid p 356

sluggishness and reluctance to take quick decisions brought European democracies into disrepute, and ultimately dug their grave

4 **Costly** Democracy is an expensive type of government Inefficiency, tardiness, and third-rate leadership make democracy very expensive In some of the democracies, which are really speaking aristocracies or oligarchies, government men are excessively corrupt, and most of the tax-payer's money goes to fatten the private fortunes of those in power No efforts may be made to practise economy, and public money may be thrown down the drain New departments may be opened, the number of posts may be multiplied, and sinecure jobs may be created to oblige party men, friends and relatives

The paraphernalia of democracy has proved to be very costly in several countries Compared to a monarchy or a dictatorship, democracy is expensive, because governmental machinery is complex and complicated There are legislatures, consultative and advisory bodies committees and commissions which all mean a heavy burden on the public treasury

5 **Tyranny of the Majority** In a democracy government is in the hands of the majority party which can afford to tyrannise over the people This is particularly true in parliamentary democracies like Britain and India The party, which can command vast resources is able to seize power and once it is in government it uses the government as its tool Though technically speaking it runs the democratic show actually it violates the true spirit of democracy 'What standard of judgement can make us believe the opinion of any 55% of the people to be wiser or fairer than that of the other 45% ? What quality has the majority in greater amount or higher value except the one quality of superior force ?'[1] The government by the majority may lead to the oppression of the minorities The political social and cultural interests of the minorities may be completely neglected or trampled under foot It is not uncommon to see men in government making use of the government money and property to further their own ends and those of the party To those in power, the party may be everything, and the country nothing This is particularly true at the time of the elections Ministers, if pelf-hungry may try to make as much money as possible during their tenure They may not be loyal to the people who are their 'masters" but to the

1 F W Coker *Recent Political Thought* (1957) p 309

with men wielding power Incompetent and ignorant relatives and friends of powerful men may also enjoy lucrative posts Voters may not be able to judge candidates, if the former happen to be ignorant and illiterate With a comfortable majority in the legislature to back them, an inefficient democratic government can carry on till the next election with utter indifference to the needs of the people A democracy may have lofty ideas and plans, but inefficiency ruins the state

2 Corruption Another charge levelled against democracy is of corruption In a democracy, there is great scope for bribery and corruption Democratic institutions have to follow a large number of rules and laws, and consequently procedures are painfully tardy In the midst of the multifarious laws and regulations, corrupt men can conveniently build their nests to gather pelf It is a well-known fact that democracies are notorious for their red-tapism, which encourages corruption Another factor promoting corrupt practices is the party system, which has become inevitable Political parties pay great attention to the collection of funds for party purposes Rich, but ignorant, incompetent and unscrupulous men get cope to seize power through political parties Almost in every democracy, power goes to the patrons of parties To many rich men, politics forms a fruitful source of business, those who succeed in seiring power use power as an instrument of their selfish motives Corrupt democratic governments shield corrupt men, and thus encourage all round corruption

In a democracy, elections have be to held, but standing for elections is possible only for the rich Candidates contesting seats have to spend large sums of money When they win elections, and reach positions of power, they try to reimburse themselves in all kinds of shady ways

3 Slowness Democracies are proverbially slow in their movement, and they take much time to execute their plans As democracy is government by consultation and criticism, it takes much time to arrive at decisions In a monarchy or a dictatorship prompt decisions can be taken, but the long and complex procedures in democracy entail much loss of time and money Even intelligent and able men in high seats of power cannot act with energetic promptitude, as procedural delays are inevitable Many a time procedures kill the spirit of good government and make real progress extremely difficult In the inter-war period (1919–39), tardiness,

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British and the American, not to speak of others During the days of the British in India, gradual constitutional progress was made between the passing of the Regulating Act (1773) and the passing of the Indian Independence Act (1947) Indian politicians and constitutionalists learnt much during the British regime and this experience was invaluable, when India secured complete independence Unlike in other Asiatic and African countries, India has been able to do well relatively speaking

India won her independence on August 15, 1947 and on January 26, 1950 the Constitution of India came into force According to the Constitution, India is a Sovereign Democratic Republic India has accepted a democratic constitution and a democratic way of life The Constitution upholds the principles of liberty and equality, and the Fundamental Rights are guaranteed by the Constitution India has adopted the parliamentary system of democracy as found in Britain

Difference between Britain and India India, like England is a democracy, but there is much difference between the two countries

1 **Little Experience** India cannot challenge comparison with Britain as far as her actual experience in running parliamentary institutions is concerned Britain has a long and impressive background of parliamentary history

2 **Adult Franchise at One Stroke** India introduced adult franchise in 1950 at one stroke of the pen, even though many critics of India's democracy thought it was a very risky step The British people took a very long time before franchise was extended to all in their own country

3 **Difference between Peoples** There is a vast difference between the people of India and the people of Britain from the political and constitutional point of view While the Indians lack the necessary exper ence to run a democratic form of government, the British people are well experienced The British enjoyed for a long time liberty and equality, which the Indians did not have before the introduction of the Constitution English people have cultivated a high level of political consciousness and civic sense, which Indians lack

4 **Difference in Standards of Living** The standard of living in Britain is high, while it is still very low in India In Britain,

members of a party belong to it because of their parent's politics or because of some irrelevant connection between the party and some locality or economic interest or religion"[1] There is a wide gap between principles and practice, because true democracy cannot be realised according to its critics 'The democratic idea has also been attacked as impracticable because it asks for qualities which the ordinary man cannot possibly be expected to possess Consequently, to try to realise it would produce a parody of democracy at best'[2]

The British historian Lecky strongly criticises democracy for its failure to safeguard liberty and provide good government. "Democracy insures neither better government nor greater liberty, indeed some of the strongest tendencies are adverse to liberty On the contrary strong arguments may be adduced both from history and from the nature of things to show that democracy may often prove the direct opposite of liberty"[3]

8 **Incompetence of People** Even though advocates of democracy lay emphasis on the sovereignty of the people, ordinary people, it is argued, are not fit to exercise sovereign or supreme power The complicated science and art of government is far beyond their comprehension Only a chosen few with their vast knowledge and wisdom are competent to lead and exercise power on behalf of the people The critics of democracy uphold the doctrine of the *elite* There is much substance in their argument that the *elite* alone are fit to rule Let us take the example of India as a democracy and ask the question how many people in the whole sub-continent of India (which is a democracy according to the Constitution) are competent to govern themselves or even to understand problems of a democratic government? If we go deep into the fitness of the people in general to have democracy, we may be compelled to conclude that the vast masses of Indians have not yet become mature for democracy

H Democracy in India and Social Background of Indian Politics

A Sovereign Democratic Republic Ancient India had democratic institutions but democracy as we have at present in India has been imported from the West The makers of the Constitution of India were inspired by Western democracies like the

1 C D Burns *Democracy* (1935) p 95
2 Benn and Peters *Social Principles and the Democractic State* (1951) p 341
3 Quoted in J W Garner *Political Science and Government* (1955) p 363

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democracy manifested itself in the economic field long back, while in the case of India, democracy has just started entering the economic field In the case of Britain, the Industrial Revolution preceded the introduction of full democracy, but in the case of India the Industrial Revolution in the true sense of the term began only recently India's poverty, which has been proverbial is the mother of several evils, which are great obstacles to demo cracy In Britain, there is almost cent per cent literary but in India illiteracy and ignorance are rampant.

Relative Success of India as a Democracy Despite the disadvantages from which India suffers, while carrying on with her democratic experiment on a large scale, she has been doing better than most of the countries, which won independence in recent years

The following factors explain the relative success of India

1 **Experience** Indians have more experience in the political and constitutional field than peoples in most of the other under developed countries

2 **Good Leadership** Indians have been fortunate in having eminent leaders, whose keen intellect, commonsense, sobriety, patience and tolerance could stand the test of the most trying years on the eve of independence and also in the post-partition days The country had the advantage of the wealth of wisdom and experience of dynamic leaders like Mahatma Gandhi, Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel, C Rajgopalachari, Dr Rajendra Prasad and several others N Weiner says "India, however, has been fortunate in that its nationalist leaders have served throughout the Constituton-making, the initial task of state integration the first and perhaps most crucial phase of national economic planning and more recently a period in which regional agitation has increased "[1] When Pandit Nehru expired (1964), India's interests were safe in the hands of Prime Minister Lal Bahadur Shastri Shastriji's death in January 1966 led to the rise of Smt Indira Gandhi as Prime Minister After the Fourth General Election (February, 1967), Smt. Indira Gandhi became Prime Minister again

3 **Co-operation of the People** With all their weaknesses, the masses of people co-operated with their leaders, and showed much tolerance and patience On several occasions Indians showed

1 Park and Tinker (Ed), *Leadership and Political Institutions in India* (1951) p 28

a great sense of awakening When China committed aggression in 1962, and Pakistan attacked India in 1965, people rallied round their country's banner, and considered no sacrifice too great for the sake of their land

4 **Support of Foreign Countries** Several advanced nations were friendly towards India, and they took genuine interest in the progress of India's democratic institutions Particularly, the USA was very generous to India, and extended her helping hand, when ever India needed it America's food aid in times of famine and her military support when China invaded India in 1962 came as great solace to India

5 **Self-Government in Small Doses** India did not get independence from Britain at one stroke It took a very long time for India to win her independence Britain gave self-government to India in very small doses as evident from the Parliamentary Acts of 1861, 1892, 1909, 1919 and 1935 Though the transfer of power was an extremely tardy process, in a way it was a blessing in disguise In fairness to Britain, it can be said that she did not leave India in the way in which the Belgians left the Congo in Africa in 1960

6 **Democratic Spirit** By and large, the people of India have shown a democratic spirit But for this, the Constitution of India would have remained a dead letter Though the vast majority of people are illiterate and ignorant, they have shown that they are not unworthy of adult-franchise and democratic institutions India has held so far four General Elections (1952, 1957, 1962 and 1967) and some mid-term elections in States in a peaceful and orderly manner Particularly, the unexpected results of the Fourth General Election (1967) revealed the sound commonsense of the people in electing their representatives

Obstacles to Democracy in India India's democracy is facing several obstacles K M Munshi mentions the factors responsible for the set-back of parliamentary democracy in India

(1) Nehru, a gifted man is far above his contemporaries
(2) Democratic values are immature
(3) There are fissiparous tendencies
(4) Politically-minded leaders lack fearless independence
(5) People have an apathy towards the future of democracy in India [1]

1 *The Illustrated Weekly of India* (Sept. 25 1961) p 45

Drawbacks The following are the obstacles in the path of India's democracy

1 **Illiteracy, Ignorance and Immaturity** Widespread illiteracy and ignorance constitute the most serious obstacle to democracy in India Since the dawn of independence, the Government has taken steps to spread literacy, and with the spread of education the path of democracy will be gradually smoothened The vast masses of illiterate and ignorant people do not know anything about the art or science of government They do not know what democracy is, and hence, they are incapable of making a success of democracy

Where people are uneducated and backward, there cannot be political maturity "When people resort to *satyagraha*, hunger-strikes, *morchas* and marches on trivolous pretexts, they make an exhibition of their political immaturity"[1]

India badly needs democratic discipline People become conscious of their rights and duties, and can discipline themselves only when they are educated "It is not merely the evolution of power and *Panchayat Raj*, but the development of democratic discipline, that can cure us of the undemocratic habits formed through centuries For that a lead from a firm and disciplined government is essential"[2] Government should give top priority to education in getting rid of obstacles to democracy

2 **Prejudices** People suffer much from linguistic, regional, caste, communal and religious prejudices Among these, caste has the strongest pull " the very fact that a caste is capable of functioning as an effective pressure group, and that its members cannot leave it and join another group at will, places it into a position of a political power, which cannot be ignored by the political parties depending for their mandates on the good will of the voters"[3] Those suffering from narrow prejudices are incapable of understanding and appreciating democratic principles, ideals and values A person with strong caste prejudice cannot understand the value of liberty and equality, and he is unfit to be democratic-minded Prejudices work most vulgarly at the time of elections M Weiner points out "The fact is that India's leadership has a set of ideals far in advance of existing practices, and the problem for India's leaders is not only to narrow the

1 P J Shroff *Democracy in India* (A Symposium 1960), p 27
2 J B Kripalani *The Illustrated Weekly of India* (August 20 1961) p 9
3 C. H Philips (Ed) *Politics and Society in India* (1963) p 54

gap between ideals and practices, but to inculcate in the masses of the country a respect for a new set of ideals which are in many ways the antithesis of the old "[1] The ugly prejudices and passions that revealed themselves when the States Reorganisation Commission's Report (1955) was released showed how dangerous linguistic lunacy could become Even 20 years after the dawn of independence, casteism, linguism and regionalism have not been diluted To many, caste comes first, the community in general afterwards, to many, their regional language counts more than the national language, and to many, their region or locality is greater than the country Narrow-mindedness and parochial prejudices are working havoc on national solidarity

3 **Emphasis on Personalities** In India personalities are given greater importance than principles, and people have yet to develop the spirit of self-reliance If democracy is to win, sound principles should triumph People in India are reluctant to criticise their leaders even if they are wrong and act contrary to democratic principles Whatever the leaders say is regarded as gospel truth This has done great harm to the cause of democracy "In our country because of the dominant personality of the Prime Minister (Nehru), democracy has not functioned as successfully as it should Because of the great awe in which the Prime Minister is held, many of the members become tongue-tied when crucial issues come up for discussion "[2] As the people are unable to judge the various issues before them and to make decisions because of their own backward conditions, they leave their leaders to decide issues and blindly follow them Groups in India take a certain stand, not on the merits of a certain issue, but on the basis of the verdict passed by this leader or that. The sooner Indians get rid of this attitude, the better it would be for the future of democracy

4 **Poverty** "The greatest danger to democracy in India is to my mind the poverty of the masses and their large scale unemploy ment A starving man's vote can be nullified by his poverty, which also means ignorance of his duties and rights as a citizen and his low vitality "[3] The vast masses of people who suffer from grinding poverty are engaged in the endless struggle for securing dry bread, and they have neither the time nor capacity

1 Park and Tinker (Ed) *Leadership and Political Institutions in India* (1959) p 30
2 P J Shroff *Democracy in India* (A Symposium 1960) p 17
3 J B. Kripalani *The Illustrated Weekly of India* (Aug 20, 1961) p. 8

to work for the cause of democracy The economic backward ness of the country has made Government introduce hasty legislation, which as its critics point out, has been paving the way to the rise of collectivism and totalitarianism In order to speed up economic progress, Government has passed laws which violate the spirit of democracy The frequent amendments of the Constitution are also not in the best interests of democracy

5 Absence of a Strong Opposition Party India as a parlia mentary democracy has failed to evolve a strong opposition party Both at the Centre and in the States, the opposition parties are extremely weak and they are nowhere in the presence of the ruling Congress Party In Britain, the Opposition is strong and ever vigilant, and is ready to provide an alternative leadership when the governing party is defeated in parliament For nearly two decades since August, 1947, the Indian Nation Congress was dominating the political and constitutional scene and all other parties were in the shade The Congress was able to brush aside any criticism of the pale and lifeless opposition groups in the legislature Pandit Jawaharlal Nehru's charismatic leardership (as the most powerful Congress boss), the proud record of the Con gress Party in the national movement and other factors put the Congress Party in a highly advantageous position Gradually the Congress leaders forgot their duties and responsibilities and misused their power in their own selfish interests Congress leaders put the party on a higher level than the country Being absolutely sure of their majority hold on the Parliament and on the State Legislatures, the Congress Ministers let loose the tyranny of their party They turned a deaf ear to all the genuine criticism levelled against them and rode roughshod over the wishes of the people If an opposition party, strong numerically and in other respects, had functioned effectively, the ruling party would have shown proper respect for democratic principles

But in the Fourth General Election (February, 1967) many stalwarts of the Congress Party including the Congress President Kumaraswamy Kamaraj, S K Patil and Atulya Ghosh were de feated at the polls In the Lok Sabha, the Congress lost 80 seats and its majority became paper thin In Madras (now Tamil Nadu) and Kerala the Congress was routed In the former state the Dravida Munnetra Kazhagam formed the Government and in the latter state the United Front of Leftists came to power In

Orissa, the Swatantra Party and the Jana Congress together formed a coalition government In Rajasthan, riots broke out when the Governor Dr Sampurnanand asked the leader of the Congress Party, Mohanlal Sukhadia to form government Even though the opposition groups, which came together were stronger than the Congress, the Governor did not invite the opposition to form government The favouritism and the partiality of the Governor were deeply resented by the opposition and the people Violence and hooliganism broke out The President of India then imposed his rule suspending the Legislative Assembly After some time, Mohanlal Sukhadia was able to form a ministry In West Bengal, a United front of 14 parties and groups was formed by the Bangla Congress leader Ajoy Mukherjee

The election results clearly revealed the unpopularity of the Congress in many parts of India and the rising fortunes of the Jana Sangh and the Swatantra Party The monopoly of the Congress to rule India completely ignoring the opposition groups and the people was brought to an end by the Fourth General Election The election results have created some hope of the emergence of a strong opposition in the future Though no single party by itself can offer any effective opposition, two or three parties can form a united opposition front

6 **Corruption** The widespread bribery and corruption and the loud talk of money in the political field constitute a real danger to democracy

7 **Press Barons** The press in India, which is in the hands of a few industrial barons is not in a position to play as effective a role as in the Western countries A few press barons control chains of newspapers Small newspapers of independent views find it difficult to survive Several newspapers side with the ruling party, whose patronage they are always eager to secure even at the cost of the independence of the newspaper

I Democracy and Social Background of Indian Politics

If political affairs of India are to be understood in the correct perspective, it is necessary to know something about the social background The following factors enable us to understand the social background of Indian politics and the impact of this background on India as a democracy

1 **Caste System** The caste system pervades throughout the length and breadth of India, and its evil influence is felt at all

levels in the democratic structure in the country At some levels, the caste system works overtly and in a more pronounced manner, while at others it works covertly Caste influence is undoubtedly one of the worst evils in India today While it is true that caste did serve certain good ends in the past and preserved India's culture and civilization through the ages, it is an unmixed evil in India as a democracy

Owing to the caste system, Indian society is not democratic, and people having caste prejudices cannot take kindly to the basic principles of democracy The caste system has a rigid hierarchy, which is diametrically opposed to liberal ideas Caste is obscurantist and utterly anti-democratic

The Constitution of India (1950) does not countenance the caste system on the contrary by guaranteeing Fundamental Rights, particularly the Right to Freedom and the Right to Equality, it has set its face against the evils of the caste system However, caste influence has permeated everywhere, and Indian democracy has been suffering much For instance, in the general elections, bye-elections, municipal elections and all other elections, a vast majority of people vote according to the caste of the candidate contesting the elections This weakness of the electorate has been exploited by all the political parties in the country Then again, in making appointments, contrary to the provisions and spirit of the Constitution candidates of particular castes are given preference It is most unfortunate that in ministry-making, one of the most important considerations is of caste

Even now, 23 years after independence and 20 years after the commencement of the Constitution, the hold of caste on the minds of the people is as strong as before

2 **Language** Language has been another adverse factor coming in the way of democracy Western countries like the USA and Britain do not have this linguistic problem In India, there are many languages and dialects, and these, particularly in recent years, have released fissiparous tendencies, which are a real menace to democracy and national solidarity

Language as a divisive force in Indian politics raised its ugly head when the States Reorganization Commission Report (1955) was released, and later States were reorganized on a linguistic basis Passion for language provoked riots, and unprecedented violence A country, which cannot solve its problems peacefully,

but tries to take them for a solution to the open streets cannot safeguard democracy

Language has created ugly fanaticism and a measure of intolerance and hatred, which will destroy democracy, if not curbed soon

India has been unable to have a national language, which is acceptable to people in all the States Hindi whose cause had been strongly and correctly espoused by national leaders like Mahatma Gandhi in the past is not acceptable to people in many areas, particularly in the Southern States

3 **Regionalism** The federal pattern (for which it seems now Indians are not mature) has unconsciously but surely encouraged regionalism, contrary to the expectations of the founding fathers of the Constitution As days pass the leaders in States, who desire to please people of their respective regions are acting against the democratic spirit of the Constitution

Regional prejudices have become dangerously strong and these are unwilling to reconcile themselves with democratic principles and practices Whether it is a question of establishing an oil refinery or a steel plant, regional interests are trying to assert themselves violently and undermining the cause of democracy, which believes in peaceful discussions as against violent fights

Regionalism is eating into the vitals of India as a democracy At the hands of many in the various regions of India, the nation gets the second preference and their own region gets the first preference They do not mind if the region survives at the cost of national solidarity They do not realise that a region is a part of the state, and if the state or nation perishes, inevitably the region also will perish

Local leaders have misled the people in the various regions, and whipped up regional passions Power-hunger goads regional leaders to encourage the monster of regionalism In some cases, local leaders sowed the regional spirit for their own selfish ends

In the absence of great charismatic leaders like Mahatma Gandhi and Pandit Nehru it has been difficult to suppress ugly and unwholesome regionalism

4 **Communalism** Communalism is another enemy of democracy in India Indians blamed the British for sowing the dragon's teeth of communal electorate and for playing one communal group against another But now, it is obvious

Indian leaders do not mind catering to communal interests for the purpose of winning political support and votes during elections Several political parties are guilty of hobnobing with communal parties and of making electoral alliances with them Several examples can be given to show how short-sighted leaders fanned communal passions for the realisation of petty ends

5 **Narrow Loyalties** The commulative effect of casteism, linguistic chauvinism, regionalism and communalism is the rise of narrow loyalties Many people, who are struck by narrow loyalties are incapable of thinking in terms of India as a democratic nation state To small and narrow minds, democracy as a form of government and a way of life is meaningless while caste and communal feelings are meaningful in their lives

6 **Deficient Leadership** In the peculiar social background of Indian politics, it has been possible for a large number of petty leaders to fish in the communal, regional, casteist and linguistic waters National leadership is decidedly on the decline, particularly after the death of great men like Mahatma Gandhi, Pandit Nehru, Sardar Patel Dr Rajendra Prasad, Dr Shyama Prasad Mukherji and Lal Bahadur Shastri India in the midst of petty loyalties needs great national leaders, who can destroy the China walls of caste creed community language and region, and cut across all the petty barriers, which threaten to bring about national disintegration and mar the prospects of democracy P D Sharma observes "Notwithstanding new trials, the post-Nehru leadership will have to rise above linguistic and regional tendencies because of the compulsions of economic development and national politics"[1] The same writer further says "The basic challenge of free India is to survive as a democratic nation and to develop herself economically through democratic methods However the aggressive stances of linguism and regionalism subvert the democratic processes of various levels of popular voting party operations, democratic leadership and the crucial areas of decision-making"[2]

J Controlled Democracy of Pakistan

Dissolution of Constituent Assembly and Framing of New Constitution For 10 years (1958-March 1969) Pakistan was under the military dictatorship of Ayub Khan Ayub Khan claimed that

1 In *Studies in Indian Democracy* (Ed.) by Aiyar & Srinivasan (1965) p 446
2 Ibid p 434

Pakistan also has democracy, but it is of a special type known as Controlled Democracy This label however is to cover the unlimited powers of the dictator On October 24, 1954, the Governor-General of Pakistan declared a state of emergency on the ground that the constitutional machinery in the state had broken down The Constituent Assembly of Pakistan which tried to grapple with the constitutional problem of the country for seven years since the establishment of Pakistan was dissolved Ayub Khan appointed a Constitution Commission with Justice Md Sahabuddin of the Supreme Court as Chairman The recommendations of this Commission modified and finally shaped by Ayub Khan produced the New Constitution of Pakistan The Commission, it was claimed, worked on the basis of the earlier parliamentary governments of Pakistan

Controlled Democracy and Basic Democrats Dictators like Ayub Khan exercise power to realise their own selfish ends under the cloak of democracy *In this particular case, the cloak was of controlled* democracy Ayub Khan, who seized power in 1958 became the first Pakistan President according to the Constitution framed under his direction In January 1965, Ayub Khan and Miss Fatima Jinnah contested the Presidentship, the former secured 61% votes as against 39% polled by the latter Thus the dictator got a new "constitutional" lease of life President Ayub Khan had no faith in the type of general elections conducted in countries like India He was of the opinion that the election results do not necessarily register the true views of the people and a government formed on the basis of election results may not truly represent the people Therefore Ayub Khan wanted to consult the people *indirectly* instead of giving them the right to elect their representatives In Pakistan, eighty thousand electoral units were to be formed, and each of them was to elect one elector, thus there were 80 000 electors or *basic democrats* (40,000 from each of the two provinces) who formed the electoral college to elect the President and the members of the National and Provincial Assemblies

In March 1969, Ayub Khan had to step down in favour of the army chief Yahya Khan, and till now there are no signs of Pakistan having a full-fledged democracy

Presidential Form According to the New Constitution of Pakistan based on *controlled* democracy, Pakistan a President form of government The President in whom executive auth

2 Sovereignty is really speaking not vested in the people. There is a show that people are to elect 80,000 electors to form an electoral college to elect the President and members of the National and Provincial Assemblies While in the USA, England, and India elections are direct, in Pakistan they are indirect

3 People do not have fundamental rights, which are justiciable The rights which are enumerated in the Constitution depend upon the President and the National Assembly Thus civil rights have hardly any meaning

4 President Ayub Khan cleverly mixed the features of the British, French and American constitutions for his *controlled* democracy to suit his own needs

The New Constitution was not drawn up from the long range point of view

(The fall of Ayub Khan and the rise of Yahya Khan are given in Chapter 70, Section VII)

K Guided Democracy of Indonesia

Birth of the Republic of the United States of Indonesia On August 17, 1945, two days after the surrender of Japan, Sukarno and Hatta proclaimed the Republic of Indonesia Sukarno became President and Hatta the Vice-President[1] In 1949, the Dutch agreed to transfer power completely to Indonesia, and on December 27, 1949 the Federal Republic of the United States of Indonesia was established Sukarno was the President, and Hatta was the Prime Minister

No Stability Owing to various factors, the Indonesian Republic did not have smooth sailing From 1950 power fell into the hands of the leaders of the Republic of 1945 viz Sukarno and Hatta The government was not stable, as no party could get a comfortable majority The Masjumi and the P N N (Indonesian Nationalist Party) were the main parties, besides, there were several small parties

1955 Elections and Protracted Crisis In 1955, elections were held for a Parliament and a Constituent Assembly The new House of Representatives of 260 members had four important parties and several small parties This made the smooth working of constitutionalism difficult "Since December 1956, Indonesia has been in the grip of protracted crisis Dissatisfaction with the course of the country's politics erupted in that month in a series of bloodless coups which put the reins of government of Central North and South Sumatra in the hands of army

1 G M Kahin (Ed) *Government and Politics of South-East Asia* (1962) p 172

regional councils"[1] Indonesia was dangerously unstable "No less than seven cabinets have held office since December 1949, none for longer than two years In general, cabinets have been weak and unable to take resolute action on contentious issues except at the risk of being overthrown [2] The fight between Djakarta and the regions became more and more serious Leaders in the rebel areas made the position of the government untenable In 1957, efforts were made to bridge the gulf between Djakarta and the rebel areas A new proclamation of martial law was made, and a ground was prepared for negotiations with the military leaders of troublesome areas

Guided Democracy to Solve Problems Arriving at a settlement was difficult but all the time President Sukarno was in a leading position He sought to end the crisis by establishing "guided democracy" or democracy with leadership When the situation was critical and confused a cabinet headed by the non-party leader Djuanda was formed in April 1957 its members belonged to several parties Several important cabinet members were responsible to Sukarno rather than to Djuanda 'This Council was created in May, 1957 as a part of the implementation of the President's conception of Guided Democracy or Democracy with Leadership which would supersede liberal parliamentary democracy"[3] According to Sukarno Indonesian Parliament (1956) was "to work on the basis of *real Indonesian democracy* and not on the basis of 50% plus one are always right in the West people's thinking was individualistic and thus a 50% plus one majority system was necessary But Indonesian society was not individualistic Rather it was a family like society, a society of brotherhood or mutual help"[4]

Confusion and Civil War In Indonesia, a National Council (later on known as the Supreme Advisory Council) under the Chairmanship of Sukarno and a cabinet of all parties, even communist, were formed The inclusion of communists angered the anti-communists In the 1957 provincial elections, the communists registered increased strength, and this was taken with alarm by anti-communists In November 1957, efforts were made to assassinate President Sukarno Confusion continued, and in 1958

1 Ibid p 178
2 Ibid p 179
3 Ibid p 205
4 H Feith, The Decline of Constitutional Democracy in Indonesia (1962), p 515

civil war broke out. Fortunately for Indonesia, civil war did not assume dangerous proportions as to invite intervention by big powers, and to a great extent substantial unity was restored

Attitude of the Elite In Indonesia, the elite are in favour of democratic values "In the constitutions and platforms of the fourteen parties the word 'democracy' is used frequently and almost always with unqualified approval"[1]

Sukarno's five Principles In 1945 Sukarno had proclaimed the Five Principles of State

(1) Faith in God,
(2) Nationality,
(3) Humanity,
(4) People's Sovereignty or Democracy, and
(5) Social Justice

Sukarno and others favour "a distinctively Indonesian form of democracy, a form, which gives expression to *musjauarah* the traditional Indonesian method of coming to agreement not through majority decisions "[2]

Constititutions of 1945, 1949 and 1950 In August 1945, when Indonesia became independent, a hurriedly prepared constitution was adopted In December 1949, with the establishment of the Federal Republic of the United States of Indonesia, a new Constitution was formed The second constitution made way to a third one in August 1950, and a unitary form of government was introduced In 1957, a Constitutional Convention consisting of 520 members was elected to prepare a basic law for the country, and for the time being the Constitution of 1950 was followed Though the Constitution makes the President a mere titular head, in actual practice owing to the towering personality of President Sukarno, very wide powers are actually exercised by him

Sukarno's National Council and Guided Democracy In 1957 Sukarno introduced a novel institution, that is, the National Council for having a peculiar type of democracy—Guided Democracy It may be noted here that Sukarno is not responsible to Parliament or people The Indonesian Parliament functions according to the Constitution of 1950 Indonesia followed the Western type of Parliamentary procedure with modifications to suit the wishes of President Sukarno, who could wield dictatorial

1 Ibid p 38
2 Ibid p 192

power in the name of Guided Democracy The cabinet and parliament are weak, and important discussions take place not at cabinet or parliamentary meetings, but at conferences of military officers and in the National Council The political set-up is such that political parties are of little significance, however the communist party is moving from strength to strength

Drawbacks The following are the drawbacks of democracy in Indonesia

1 **Dictatorship with Cloak of Guided Democracy** Indonesia's democracy under Sukarno's leadership was a farce Naked dictatorship was palmed off as *Guided Democracy The instability* of Indonesian politics and the frequent changes in government necessitated the abandonment of democracy as understood in Western countries President Sukarno has been able to exercise power, which a President of a parliamentary democracy like India will never have, "as parties and parliament had lost their legitimacy, and as the claim of regionalist leaders to political authority had been destroyed through military defeat Furthermore the President succeeded in maintaining himself as the nation's chief seeker for and discerner of ideological truth "[1]

2 **Helplessness of Parliamentary Institutions** The flam buoyant President Sukarno held Indonesia under his spell for nearly two decades Under his charismatic leadership, his word was law, and parliamentary institutions were treated with scant respect Sukarno could introduce new institutions, and modify or abolish existing institutions as he liked In a speech in August 1959 President Sukarno spelt out the principles of his political manifesto 'the 1945 Constitution, Indonesian Socialism, Guided Democracy, Guided Economy, and Indonesian Personality or Indentity" The Parliament elected in 1955 became powerless, as much of its authority was taken away by the formation of the National Council (which was later changed into the Supreme Advisory Council), the National Planning Council and the Interim People's Consultative Council[2] The Constitution of 1945 was revived by Presidential decree after the dissolution of the elected Constituent Assembly of 1959 A few *months after the dissolution* of the elected Parliament in March 1960, a new *mutual help* parliament was appointed by decree

1 H Feith *The Decline of Constitutional Democracy in Indonesia* (1951) p 591
2 Ibid p 592

3 Control over Political Parties In Sukarno's Guided Democracy political parties were at the mercy of the Government Parties could not function freely, as their activities were subject to several restrictions and army controls

4 No Civil Liberties and Freedom of the Press People lost their civil liberties with the frequent and arbitrary arrests of the people The freedom of the press disappeared Journalists were arrested, and papers were temporarily banned

Fall of Sukarno Sukarno overreached himself in his national and international dealings Internally, he dictated as he liked, and suppressed all opposition against him Internationally too, he tried to show off, and for some time it seemed that Indonesia was a great force which could easily administer rebuffs even to countries like Soviet Russia He hobnobbed with the Chinese communist leaders like Mao Tse-tung and Chou En-lai, and supported China against Soviet Russia, which had given considerable material help to Indonesia Unwittingly, Sukarno walked into the Chinese trap It was soon evident that Indonesia had become the tool of Red China

In September 1965, there was an abortive *coup d'etat* in Indonesia Sukarno's palace guard under Lt Col Untung and aided by PKI (the Communist Party of Indonesia) attempted to get rid of the topmost military leaders Yani and other generals were murdered, and their bodies were flung into a well Since the *coup*, a lakh or two persons were killed

Sukarno's "neutrality" between rebels and loyalists was deeply suspected by the people Particularly the Indonesian students openly declared that President Sukarno and Foreign Minister Subandrio were responsible for selling the country to the communists, and demanded their trial Subandrio was actually tried, and a sentence of death was passed on him

In March, 1966 Sukarno surrendered authority to his right-wing Army Commander, Lt Gen Suharto In January, 1967 the Indonesian army asked Sukarno to step down or face civil war In March, 1967 Indonesia s Congress announced the end of Sukarno's stormy rule of 21 years

L Future of Democracy

Dangers of International Warfare and Dissensions International conditions and internal conditions in a country have much

to do with the future of democracy "Two menaces to democracy are international warfare and bitter internal dissensions concerning the proper way of dealing with the deep-seated social mal-adjustments A frequent consequence of the latter is the breeding of irreconcilable attitudes which are likely to result in the settlement of controversial questions by bullets rather than by ballots A continuation of international crises involving war or serious threats of war will have an adverse effect on the future of democracy"[1]

Conditions for Bright Future Certain conditions are essential for a bright future of democracy It does not require a prophet to say that democracy has a good future only if the people in a country cherish it as a form of government and a way of life, and are very keen in having it Countries having good democratic traditions, a passion for liberty and equality and a democratic temperament will make necessary sacrifices to keep alive the flame of democracy They will not forget the principle that democracy is government of the people, and good government is no substitute for self-government In countries like Britain and the USA the democratic spirit is ingrained in the people Democracy will be safe, provided governments keep the man in the street satisfied and free from the worries of poverty and unemployment "Democracy stands a good chance of survival in any country in which it has proved reasonably satisfactory and its successful functioning at one or more places may lead to imitation in others On the other hand failure of the democracies to solve their various social and economic problems may retard the spread of democratic government and even may lead to its disappearance"[2]

Dangers of Communism and Totalitarianism Communism and totalitarianism are also real dangers to democracy Communism has been able to register spectacular progress in the twentieth century, and about one-third of the world has gone red (See Chapter 31 on Communism) Communism covertly or overtly tries to enter every country If democracies are able to solve the problems of the people, it will not be easy for communists to sell their wares If Western democracies now can safeguard the economic and other interests of the people, dictatorship will have no scope to rise It must be remembered that in the inter-war period (1919-1939) authoritarian regimes rose in countries in

1 E. B Schulz *Essentials of Government* (1961) p 227
2 Ibid p 225

which the democratic governments could not deliver the goods and deep frustration could be found among the masses of people

Future of Democracy in Underdeveloped Countries The future of democracy in the underdeveloped countries of Asia and Africa (euphemistically called developing countries) cannot be bright, when one looks at the developments that took place in them since they won their independence

India Comparatively speaking, India has shown a good measure of political stability Her record in maintaining the stability of her democratic institutions can be favourably compared with that of the other countries of Asia and Africa 'The prospects for democracy in India have been immeasurably heightened by the success of the Indian political experiment during the first decade and a half of Independence More and more Indians are beginning to feel not only that democracy is the right system for India, but it is becoming well-established and will succeed "[1]

However, democracy in India has been exposed to great dangers The increasing discontent of the people, repeated failure of crops, the steep devaluation of the rupee in 1966, pressure from foreign governments, failure of production schedules, continuously increasing prices, the mounting bribery and corruption, the Chinese invasion in 1962 and the Pakistani invasion in 1965, the havoc created by casteism, linguism and regionalism, and the serious mistakes committed by the Congress Government during 1947-70 put democracy on a trial in India Several Western critics, who never see anything good in Indian democracy forecast its doom, and went to the extent of saying that the Fourth General Election (1967) would be the last But quite contrary to the forecast of these prophets of gloom, India succeeded in conducting the Fourth General Election in an atmosphere of peace The election results showed that democracy was striking roots in Indian soil The verdict of the electorate showed the sound commonsense of the people and their ability to bring about a revolution through the ballot box The "bloodless" revolution broke the monopoly of the Congress to rule the country Evidently, the future of democracy is not so bad in India as many people unnecessarily fear

Pakistan Pakistan did not have general election and President Ayub Khan imposed his dictatorship on the people in the name of *controlled* democracy He was followed by Yahya Khan, another dictator

1 N D Palmer *The Indian Political System* (1961) p 17

Indonesia In Indonesia, since she won her independence in 1945, conditions were never stable owing to several problems awaiting solution Frequent fall of cabinets, riots, civil war and communist menace paved the way to the rise of the dictatorship of President Sukarno, who wielded authority in the name of *guided democracy* In 1966-67 Sukarno fell from his high pedestal of power

Other Countries Rupert Emerson says in his essay *The Erosion of Democracy* in the new States "The story which has repeated itself over and over again is that people have set out on the democratic path with revolutionary enthusiasm, but before long they have lost their way and settled back into authoritarian or dictatorial regimes "[1] A survey of countries where democracy was established in recent years makes depressing reading A few unfortunate examples of the failure of democracy in countries other than Pakistan and Indonesia can be given

In Burma and Sudan as in Pakistan, power fell into the hands of army leaders, who side-tracked constitutional methods

In Iraq a general seized power and in Lebanon the army chief became President

President Kwame Nkrumah of Ghana ruled his country in an authoritarian way But he himself was overthrown in 1967

Guinea, after winning her independence chose the one-party system under the leadership of Sekou Toure

Africa from which more than 30 independent states emerged since the end of World War II is a continent of *coups* Several *coups* engineered by army leaders were staged in Africa It is significant to note that foreign powers have directly or indirectly tried to interfere in the internal affairs of these countries to change the course of politics in their favour

M Rivals of Democracy

Any form of government in which power is exercised without the consent of the people and in which the people have no share is a rival of democracy Absolute monarchy, aristocracy or plutocracy, any type of authoritarian government, and any kind of dictatorship is a rival of democracy

Absolute Monarchy Absolute monarchy is a rival of democracy for the following reasons

(1) Sovereignty is not vested in the people

1 In Eckstein and Apter (Ed), *Comparative Politics* (1963) p 635

(2) The monarch exercises power without the approval of the people

(3) The monarch is not responsible to the people, and he can do whatever he pleases

(4) The monarch may deny rights to the people, and subject them to his autocratic power People may not have political and civil rights

(5) The monarch raises taxes arbitrarily, and spends public money as he likes

(6) The monarch may not allow any individual to criticise him, and may punish those who speak against him

(7) The monarch has all executive, legislative and judicial powers in his own hands The law-makers and judges may be entirely subservient to him

(8) The government does not function according to any constitution, but according to the will of the absolute monarch

Aristocracy or Plutocracy An aristocracy or plutocracy too is a rival of democracy, if it functions against all the basic principles of democracy discussed earlier in the chapter

Dictatorship Dictatorship of any type (viz Nazi, Fascist and Communist) is also a rival of democracy Details of dictatorship are dealt with in the next chapter

N Democracy and Social Justice

One of the main objectives of a democratic government is to give social justice, in fact in modern times the greatest emphasis is laid on social justice Every individual in a truly democratic country is done justice, besides, he feels that justice is done to him He feels that he is completely free as others are, and enjoys all kinds of rights as others do He is not denied rights, which are given to others

When the individual goes to a court of law in a democratic country, he is treated according to the law, and secures justice according to the law He carries with him a feeling that justice is done to him, and he is not denied any rights or privileges which are accessible to others

In a democracy, no favour is shown to any class, and no class is allowed to exploit other classes, as the principle of social justice is followed

A democracy aims at the welfare of all and not at the welfare of any particular individual or a group of individuals only

Social Justice and Social Welfare in India As given in the Preamble and the Directive Principles of State Policy of the Constitution of India, the Union and State Governments should exert themselves for promoting social welfare The Preamble speaks of social, economic and political justice, and the Directive Principles provide the guidelines for the realisation of social welfare

In the USA, Britain and other democracies, ambitious and comprehensive social welfare schemes have been implemented without throwing overboard the principles of liberty and equality

In Soviet Russia and other states having forms of government, which are rivals of democracy, steps have been taken to promote social welfare, but the individual is brought under totalitarian control, which means denial of rights While in democratic countries democracy is wedded to social welfare, the two do not go hand in hand in non-democratic states

MAIN POINTS

1 **Meaning of Democracy** Conveys various meanings Multiheaded concept Form of government and way of life Various interpretations of democracy People s government Communist view of democracy Controlled democracy of Pakistan and Guided democracy of Indonesia Rule of the *majority* Lincoln s definition Roosevelt s emphasis on democracy as a positive and constructive force Government by consent and public criticism

2 **Forms of Democracy** *Direct democracy in Greece* Representative or indirect democracy in modern times Direct democracy as in *Greece* not possible now Ancient direct democracy was restricted and slave-owning Modern democracy based on liberty and equality Referendum initiative plebiscite and recall in some states

3 **Essentials of Democracy** (1) Strong desire for democracy (2) Eternal vigilance (3) Conflict of ideas cooperation sympathy and understanding (4) Public consent and criticism (5) Educated and well-informed electorate (6) Good leadership (7) Free and fearless press (8) *Prosperity* (9) Good constitution

Institutional Requirements (1) Written *constitution* (2) Enlightened electorate Adult franchise (3) Legislature (4) Judiciary (5) Free Press

4 **Merits of Democracy** Democracy superior to other forms of government (1) Protects interests of all (2) Upholds human dignity (3) Upholds liberty and equality (4) Trains people (5) A responsible government (6) Promotes people s welfare (7) Democracy wedded to peace discussion and persuasion

5 **Defects** (1) Inefficency (2) Corruption (3) Slowness (4) Costly (5) Tyranny of the majority (6) People s power a myth (7) Gap between precept and practice

6 **Democracy in India** India a Sovereign Democratic Republic Relative success owing to certain factors like experience good leadership cooperation of the people and support of foreign countries Drawbacks. (2) Illiteracy and ignorance (2) Prejudices (3) Emphasis on personalities (4) Poverty (5) Absence of strong opposition (6) Corruption (7) Press barons

Social Background Caste language regionalism communalism and poor leadership

7 **Pakistan** Controlled democracy 80 000 basic democrats President Ayub Khan s dictatorship Limited rights of people Fall of Ayub and rise of Yahya Khan

8 **Indonesia** Guided democracy Sukarno s dictatorship Unrest and strife Sukarno in power for 21 years His serious mistakes Fall from power after the abortive coup of September 1965 Rise of Suharto

9 **Future of Democracy** Dangers of international warfare and internal dissensions communism and totalitarianism Future of democracy in under developed countries (1) India Comparative stability Dangers of regionalism, casteism and linguism Economic problems (2) Pakistan Dictatorship (3) Indonesia Turbulence (4) Africa Continent of coups

10 **Rivals of Democracy** Absolute monarchy aristocracy or plutocracy, and dictatorship

CHAPTER 41

DICTATORSHIP

In the last chapter, we discussed democracy In this chapter, we shall deal with dictatorship, one of the rivals of democracy

A Definition and Meaning of Dictatorship

Unrestrained Power The term *dictator* has been borrowed from ancient Rome Dictatorship is a form of government, which is a rival of democracy, and its principles are quite opposite to those of democracy While democracy upholds liberty, dictatorship suppresses liberty, and stands for unbridled power "By dictatorship we understand the rule of a person or a group of persons who arrogate to themselves and monopolise power in the state, exercising it without restraint "[1]

One Man s Arbitrary Government Dictatorship has also been defined as 'the government of one man who has not primarily obtained his position by inheritance but either by force or by consent, usually by a combination of both He must possess absolute sovereignty, exercising it arbitrarily by decree rather than by law "[2] In a democracy government is responsible to the people On the other hand a dictatorial from of government, as found in Fascist Italy, Nazi Germany, Soviet Russia and Communist China follows policies and exercises power without the least regard for the people s opinion or criticism

Based on Force A dictator dictate , that is, he rules as he pleases, his government passes laws to strengthen his own hands and to keep the people within his tight grip There are no restraints on his authority, and if any individual or a group of individuals tries to question his authority, he responds violently, and ruthlessly suppresses them Democracy is based on consent, whereas dictatorship is based on force "Dictatorships have, as a

1 F Neumann *The Democractic and The Authoritarian State* (1957) p 291
2 R H Soltou *An Introduction to Politics* (1959) p 211

rule, been governed by individual control The Hitler type of dictator is the supreme leader and is law unto himself, responsible to no one Mystical adulation is heaped upon him by his subordinates and loyal followers Contrasted somewhat with this concept is dictatorship based on a royal family, a church, an army or a political party"[1]

B Kinds of Dictatorship

1 Old and New

Dictatorship is of two types Old and New

Old Dictatorship The old type of dictatorship can be traced to ancient Rome In the Republican Constitution of ancient Rome, there was provision for dictatorship during times of emergency While in normal times the highest executive authority was exercised by the Consuls, during emergency a dictator superseded the Consuls For instance, when Hannibal invaded Rome, Consular authority yielded place to the power of the dictator The dictator in Rome was to step down as soon as normal conditions were restored, and there were principles according to which the dictator had to act

Modern dictators, on the other hand, are laws unto themselves, and once they seize power, they try to remain in saddle indefinitely Only superior military force or death can get rid of modern dictators

Old dictatorships had a very simple governmental machinery at their disposal Their scope and intensity were limited On the other hand, modern dictators have unlimited scientific and technological devices at their disposal, and precise political principles and ideologies to follow They reorganise governments in a thorough manner to suit their ideas and those of their party, and proceed scientifically and ruthlessly to enslave the body and mind of the citizen

Modern dictators aim at world domination, and the sky alone is the frontier of their ambitions Ancient dictators pale into insignificance, when compared to their modern counterparts

Old dictatorships are of two types Crude and Caesaristic The crude dictator merely relies on force But the Caesarean dictator has extraordinary qualities

Modern Dictatorship A modern dictatorship is not transient and temporary It tries to strike deep roots in the soil and strongly

1 J S Roucek and Others *Introduction to Political Science* (1954) p 230

entrench itself in power Lenin and Stalin in Soviet Russia esta blished a totalitarian dictatorship which has not only survived since its establishment in 1917, but has gained in strength Mao Tse-tung's dictatorship in China also has the feature of perma nence Both these dictatorships have spread their tentacles all over the world and have moved from strength to strengh Unlike the dictators in anci nt Rome, modern dictators rise to power by sheer brute force 'An outstanding difference between the contem porary dictatorship and those of the past is that the modern form is normally based on theory '[1] Modern dictators take advan tage of the defects of a constitution, and fling the constitution into the waste paper basket after seizing power

Some of the modern dictators manage to have constitutional cloaks to cover their regime The term 'president', for instance becomes a misleading expression when used in connection with dictators like Kamal Pasha of Turkey, Ayub Khan and Yahya Khan of Pakistan, Sukarno of Indonesia, and Liu Shao-chi and Lin Piao of Communist China

2 **Rightist and Leftist** Modern dictatorships are of two kinds Rightist and Leftist Rightist dictators stand for or tolerate capitalism, while the leftist dictators stand for socialism Germany, Italy, Turkey Greece Spain Portugal and other countries have Rightist dictatorship while Soviet Russia and China have Leftist

3 **Fascist Communist and Military** Modern dictatorship can be classified in another way (1) Fascist e g Italy and Germany (2) Communist e g Soviet Russia and China (3) Military e g Indonesia, Pakistan and Egypt

C Rise of Modern Dictatorship

The twentieth century witnessed a bumper crop of dictators In the interwar period (1919-39), dictatorship rose in Italy Germany, Spain, Turkey, Soviet Russia and other countries After the end of World War II (1939-45), it rose in China, Indonesia, Pakistan, Burma, Sudan, Egypt, Iraq and other countries

Reaction against Democracy Modern dictatorship rose as a strong reaction against democracy, which had its brief golden period in the first two decades of the twentieth century During the interwar period (1919-39), democracy became a casualty in several European countries and even the old democracies were rudely shaken to their foundations States which were carved out

1 Ibid p 132

on the principle of self-determination had democratic constitutions, which unfortunately could not bear the strain of the challenging times In the new democracies, progress was painfully slow, and all the drawbacks of democracy were evident

Causes Modern dictatorship rose owing to the following causes

1 **Arrogance of Victorious Powers** Victorious powers like Britain and France were arrogant While the victorious powers of World War I like Britain spoke of high-sounding principles like self-determination on the one hand, they arrogantly followed capitalist and imperialist policies on the other The defeated powers like Germany were treated unduly harshly and with contempt, and a spirit of revenge animated the people in countries, which were laid in dust The defeated and humiliated powers bore a grudge against the victorious powers The principle of self-determination was denied to several subject countries like India Double standards were followed, and efforts were made by self-righteous leaders of the world to keep down peoples in the various parts of the world In several countries, there was a clear trend favouring totalitarian dictatorship

2 **Failure of Democracies** In the inter-war period, hollowness of democracies was thoroughly exposed, and this led to the spread of dictatorship like an epidemic Democratic constitutions were made for countries in which the necessary conditions for the smooth working of democracy were totally lacking The genius of people in different countries did not match the letter and spirit of the democratic constitutions Though President Woodrow Wilson of the USA had triumphantly declared that the world was made safe for democracy, conditions were unfavourable in several countries for democracy to strike roots

In Germany, for instance, the democractic Weimar Constitution was unable to face the challenge of the times Germany's great distress after World War I beggared description People lost faith in democracy, as inflation, unemployment and demoralisation were mounting day by day Hitler then rose to power, and held out a rosy future for Germany (See Chapter 34 on Nazism for the rise of Hitler's dictatorship)

In Italy, the disgruntled victor of World War I too, the people were frustrated, and Benito Mussolini was able to be the dictator (See Chapter 33 on Fascism for the rise of Mussolini s dictatorship)

(3) existence of a monopolistic state party,
(4) transition from pluralist to totalitarian social controls,
(5) reliance upon terror.[1]

3 Ruthless One-Party Rule In a dictatorship, the party to which the dictator belongs exercises ruthless control in the state from top to bottom, allowing no individual or party to rise against the ruling party. Even though there may be a written constitution outlining the formation of various institutions in which the people can work, one single party dominates all institutions. Brutal methods are used to keep out anti-party people and to weed out the enemies of the government and the party. There is no difference between the party and the government. The Nazi party in Hitler's Germany, the Fascist party in Mussolini's Italy, and the Communist party in Soviet Russia exercised complete dictatorial control.

4 No Rights Rights which people enjoy in democratic states are denied to people under a dictatorship. People do not have political and civil rights. They are not allowed to express their opinion or criticise, and those who venture to do so are sent to concentration camps or slave labour camps or liquidated. All agencies of public opinion and means of communication are controlled and censored by the state. Only 'rights' which are allowed by the dictator can be enjoyed by the people. People have to remain silent and suffer totalitarian control and humiliation with stoic patience. Dictators manage to control both the body and the soul of the individual.

5 Cruel Suppression at Home and Aggression Abroad All modern dictatorships use brute force to realise their goal. In numerous ways, fear is struck into the minds of the people who are forced to toe the dictator's line. Secret police are employed to deal with the enemies of the state. Confessions are taken, and justice is meted out. Undesirable elements are killed or hounded out of the state so that others are terrorstruck and made submissive. The atmosphere is charged with fear and suspicion, and there is all round ruthless suppression. In the external sphere, a policy of aggression is followed. The dictatorships of Hitler, Mussolini and Stalin were based on brute force, aggressive nationalism and imperialism. Stalin and Mao developed the communist brand of imperialism.

6 Wide Gulf between Dictator and People In a dictatorship there is a wide gulf between the dictator and the people and

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1 *The Democratic and the Authoritarian State* (1957) p 244

there is no distinction between state and government Like the absolute monarch Louis XIV of France, the dictator regards him self as the state As power is based on coercion and not on consent, the dictator suspects all and takes steps to protect himself from any plots and conspiracies against his life

E Merits and Defects of Modern Dictatorship

Merits Let us briefly discuss the merits of dictatorship

1 **Simplicity and Singleness of Purpose** The governmental machinery is simple, and the wheels of government can revolve quickly as all power is concentrated in the hands of one man Dictators show a singleness of purpose which one rarely finds in leaders in a democratic country The dictator knows his targets and follows clear-cut methods to reach them

2 **Low Cost of Administration** While the cost of admini stration in a democratic state is heavy, the cost is relatively low in a dictatorship The paraphernalia of a democratic government is *complex and costly, but in one man's rule, one does not find* the costly luxuties of unnecessary sinecure posts, parliamentary committees, subcommittees and commissions

3 **Efficiency and Progress** Even the worst critics of dicta torship admit that dictators move swiftly and with energetic promptitude A democracy is nowhere near a dictatorship in efficiency and vigour While a democratic government takes a long time to discuss and introduce new measures, and improve conditions, a dictatorship can do much in a short time A dictator appoints the right type of people to get things done swiftly and efficiently, and he can dismiss them if they do not obey his orders This is difficult in a democracy, in which many a time worthy persons cannot be appointed, and unworthy and incompetent government employees cannot be easily sacked

In a dictatorship, the whole country is coerced to follow the dictator, and government servants, who do not carry out the orders of the dictator are punished severely or weeded out Inefficient people and lazy drones have no place in a dictatorial government In fairness to Hitler, Mussolini, Stalin, and Mao Tse-tung, and other dictators, it must be conceded that they did in a decade, what democracies would normally take four Soviet Russia under Stalin and China under Mao Tse-tung registered spectacular pro gress, which was unheard of in the days of the monarchs

Defects The following are the defects of dictatorship

1 **Brutal Suppression** Dictators do not care for the feelings of the people Love, understanding and sympathy are alien to a dictator Dictatorship is based on brute force and fear, and it seeks to annihilate everything coming across its path It attaches no value to the dignity of the human being People have no rights, and they are treated as the tools of the state

2 **Egoistic and Selfish** Dictators are highly egoistic and selfish They use all their energy and coerce all people to follow their path in order to realise their own selfish aims or those of their party The real interests of the people do not count People are thrown to the tender mercies of power-drunk, egoistic and selfish leaders

3 **Imperialism War and Destruction** Dictators are imperialistic, and are committed to a policy of aggression and aggrandisement They lead their countries to war and bring destruction to all including themselves Hitler Mussolini and Tojo ruined their respective states, and also brought destruction and sorrow to other countries Dictators are against international peace and good will

4 **State an End** Under a dictatorship, the state is made the end and not the means to an end The individual is made a helpless tool to realise the end of the state

5 **No Continuity** A dictatorship may come to an end after the death of the dictator His son or successor may not have his outstanding qualities and strength, and a struggle for power endangering the stability of the state may inevitably break out Democracies make provision for an orderly succession or change in government The transition is smooth and peaceful but conditions are different in a dictatorship

6 **Against Accepted Values** Dictators throw over-board all the generally accepted values of society, if they come in the way of their power Spiritual, moral and religious values are brushed aside for the sake of remaining in saddle

MAIN POINTS

1 **Meaning of Dictatorship** Unrestrained power Arbitrary government based on force One man s rule with support of one party

2 **Kinds** 1 Old dictatorship Modern dictatorship 2 Crude and Caesaristic 3 Rightist and Leftist 4 Fascist Communist and Military

3 **Causes of Modern Dictatorship** Bumper crop of dictators in the 20th century Causes 1 Arrogance of victorious powers 2 Failure of democracies

3 Emergence of extraordinary men 4 No saviour for democracy 5 Helplessness of the League of Nations

4 **Features** 1 Authoritarian 2 Totalitarian 3 One-party rule 4 No rights. 5 Cruel suppression at home and aggression abroad

5 **Evaluation** Merits 1 Simplicity and singleness of purpose 2 Low cost of administration 3 Efficiency vigour and progress Defects 1 Brutal suppression 2 Egoism and selfishness 3 War and destruction 4 State an end 5 No continuity

Section X
DIVISION OF POWERS

Chapter 42 Unitary Government
43 Federal Government

CHAPTER 42

UNITARY GOVERNMENT

One of the ways in which governments are classified is into Unitary and Federal

A Territorial and Functional Divisions of Powers

Need of Division of Powers It is necessary to make a division of powers in a state for the sake of convenience, and for the smooth and efficient working of the governmental machinery

The division is made in two ways (1) territorial, and (2) functional "These two are not alternative methods Both are employed in the organization of all modern governments In their employment a wide divergence of policy is, however, possible According as one principle or another is followed in distributing powers territorially, there is brought into existence a type of government known as Unitary Government or one to which the designation of Multiple Government may be given though the term more usually employed is that of Federal Government"[1] States like England and France have unitary government, while the USA and the USSR have federal British India had unitary government, but according to the present constitution (1950), India is a Union of States, a unique type of federation

In the case of territorial division, the territory of the state is divided and subdivided, each one of the divisions or subdivisions is charged with the duty of performing particular functions and

1 F W Willoughby *The Government of Modern States (1936)* p 165

the necessary powers are conferred on it for the purpose In the case of functional division, functions and the necessary powers to look after them are assigned to specific organs or authorities In British India, which as stated above was unitary, territory was divided into Presidencies or Provinces, each of them was divided into districts, and each district was divided into Talukas

Territorial and functional division of powers enables a government to function smoothly, by taking off the load of functions from one centre of authority and giving it to the authorities in the geographical division or subdivision, and by assigning functions to different authorities according to the principle of functional division Another advantage in the division of powers is that work can be conveniently done by the different divisions and subdivisions and the various authorities, as it mostly pertains to the interests of a particular area or locality It must also be noted that division of powers enhances the efficiency of government and reduces the cost of administration

Unitary and Federal Forms An important question to be answered about the geographical or territorial division of powers is Which authority shall divide powers geographically, and in what manner ?

Two answers are given to the question

(1) In one case, a single integrated system of government exercises all powers, and the legal sovereign gives all powers into the hands of a *single central government* This system is called Unitary

(2) In another case, two sets of government are formed according to a written constitution This system is called Federal

" The primary basis of distinction between unitary and federal systems of government is the *nature of the authority* which controls the territorial distribution of governmental powers "[1]

B Definition Meaning and Features of Unitary Government

Supreme Single Central Government As the name itself suggests, in a unitary system, there is one set of government, to which all authorities are subordinate " A unitary state is one organized under a single central government, that is to say, whatever powers are possessed by the various districts within the area administered as a whole by the central government, are held at the discretion of that government, and the central power is

1 E B Schulz *Essentials of Government* (1961), p 177

supreme over the whole without any restrictions imposed by any law granting special powers to its parts "[1] A unitary form of government is one in which all governmental powers are exercised from one centre consisting of one supreme legislature, one supreme executive and one supreme judiciary for all the territory in the state The central government does not treat the provinces as its equals or share any power with them, on the contrary, it treats them as its subordinates and issues orders to them J W Garner defines unitary government as "that form in which the supreme governing authority of a state is concentrated in a single organ or set of organs established at and operating from a common centre "[2] In countries like India (according to the Act of 1919), Britain, France, Denmark, Belgium, Holland, Spain, Norway, Sweden, Italy, Turkey, Japan, Iran, Afghanistan and New Zealand, which have a unitary form, the central or national government exercises undivided power

Provincial and Local Bodies under Central Control In a unitary form of government, there may be several provincial and local bodies and corporations, but all of them function in a subordinate capacity at the discretion of the central government All provincial and local governments are the creatures of the centre, and they shall exercise only those powers conferred on them by the centre All legislative bodies in the unitary system are under the control of the central legislature, which is the only supreme law-making body Though powers are given to the various geographical subdivisions, they are to be exercised strictly according to the will of the centre

As regards the position of the central legislature, an important point has to be clarified, and that is, the central legislature is not superior to the constitution This can be said particularly with reference to states *like the Irish Republic The central legislature* is bound by the provisions of the constitution Thus, in this respect there is a similarity between a unitary state with a written constitution and a federal state In England, a unitary state, it is the Parliament and not the constitution that is supreme

Legislative Supremacy At the same time, it must be noted that while legislative supremacy is the feature of the unitary state, the supremacy of the constitution is the feature of the federal state Legislative supremacy in a unitary state means the inferior

1 C. F Strong *Modern Political Constitutions* (1958) p 61
2 *Political Science and Government* (1955) p 377

status of the various law-making bodies and the superior status of the central legislature

Features Let us briefly examine the features of the unitary system

1 Centre Creator and Units Creatures in an Integrated System Unlike in a federal system, in a unitary system, the political divisions and subdivisions are the integral part of the government at the centre (See Chapter 43 on Federal Government) There is no constitutional distribution of powers between the central government on one hand and the provinces or divisions on the other [1] *Local governments derive whatever authority* or autonomy they possess and indeed their very existence [1] from the centre "Ordinarily the central government may determine the number and nature of self-governing political subdivisions and may do away with them at pleasure That being the case local bodies politic are clearly the offspring of this government "[2] The central government is the creator of the divisions and subdivisions, and so it can increase or decrease their number, or abolish anyone of them if it deems fit As the divisions and subdivisions are *the creatures of the central government, they have to obey* the orders of the centre Local units in a unitary state receive authority as a gif from the central government and not as a right The centre can contract or enlarge the powers of the subordinate governments, according to its own discretion The centre is free to withdraw fully or partially any authority given to the divisions Unlike in a federal system, in a unitary system, the divisions do not have a co-ordinate status, *but a subordinate status*

2 Supremacy of Central Legislature The supremacy of the *central legislature is another important feature of the unitary system All legislative bodies in a unitary state are subservient to* the central legislature Negatively speaking, the non-existence of subordinate *sovereign* bodies is a conspicuous feature of a unitary state While in a unitary state like England a County is created by the Parliament, in a federal state like the USA, the federated units or States have their own subsidiary sovereign bodies, *which are not the creatures of the federal legislature,* but the products of the constitution "In a unitary government the organs of local authority (provincial and county bodies, etc) exist

1 Ibid p 317
2 E B Schul *Essentials of Government* (1961) p 178

by virtue of an express creation, or by tacit recognition from the central government The latter has power, legally, to terminate their existence or alter their form"[1]

In England, divisions like Counties have powers not because any constitution has conferred on them, but because Parliament created the divisions by its Acts These divisions have to obey the orders of the central government

Similarly, in France the cantons, *arrondissements* and communes are merely the agents of the central government It may be noted here that while in England local divisions enjoy a good deal of autonomy, in France there is excessive centralisation, and it is said that it is misleading to talk of local autonomy

C Merits and Defects of the Unitary System

Whether a unitary or federal system is suitable for a particular country depends upon its size, the genius of the people and other factors

Merits The following are the merits of the unitary system

1 Good for Small States The unitary system is particularly good for small countries like England, Belgium and Italy The whole country can be conveniently and effectively governed from one centre

2 Stability The unitary form is highly favourable to the maintenance of stability, unity and national solidarity in a country As there is only one set of government, it is possible to have uniformity in law and administration Relatively speaking, fissiparous tendencies cannot easily rise in a unitary state, as the loyalty of the citizen is not divided between two sets of government

As all power emanates from a single centre, and policies are made at one centre, the unity in a country can be easily built The question of the centre consulting the divisions every now and then in the formulation of policies does not arise, and this saves much time and money, not to speak of the maintenance of efficiency As the divisions are the creatures of the centre, generally there is no occasion for them to get into controversies with the centre

In a federal system, the units can find occasions to challenge the authority of the centre with reference to the written constitution

In formulating foreign policy and in looking after defence, the unitary system is more advantageous than the federal

1 S Leacock, *Elements of Political Science* (1933) p 115

3 **Flexibility** The centre can change its policies and methods to suit the changing times and improve the administrative system Its hands are not tied, and it can make the necessary modifications and adjustments Thus there is much flexibility, which is absent in the federal system "The principal advantage of a unitary system is its flexibility in the matter of distributing and redistributing powers on a territorial basis Since the central government, which is in full command of the local government problem, may allocate powers through the ordinary law-making process, the transfer of authority from one level of government to another is easily accomplished"[1]

4 **Simplicity** The unitary system is simple, whereas the federal system is complex It is easier to run a unitary system than a federal one An ordinary man finds it easy to understand the unitary system The federal structure and the inter-state relations are difficult for the lay man to understand

5 **Low Cost of Administration** The expenses on administration in a unitary government are decidedly lower than those in a federal government The former has to maintain only one set of government, while the latter has to maintain two Therefore, states with limited resources should choose the unitary system

Defects The unitary system suffers from the following defects

1 **Central Despotism** The unitary system may be misused by those who have craze for power, as it provides ample scope for the despotism of the centre "The primary objection to the unitary system is its lack of formal safeguards against undue centralization of government functions If the central agencies so desire, they may either monopolize the exercise of controls and the condition of services or confer only insignificant discretionary powers on political divisions"[2] Political and administrative leaders at the centre may behave in a dictatorial manner towards those in the provinces

2 **Top Heavy Centre** As administration has to be conducted from one centre, the centre may become top heavy, and this may lead to a fall in the administrative standards

3 *Side-tracking Distant Areas* Several factors may make the centre side-track the distant areas The requirements of the people in the distant regions may not be met by the centre, and

1 E B. Schulz *Essentials of Government* (1961) p 179
2 Ibid p 181

their interests may go unprotected The hopes and aspirations of the people in the provinces do not have much scope in a unitary pattern

4 **Local Initiative Discouraged** The unitary system throws a wet blanket on the enthusiasm of the people in the different areas to come forward and associate themselves with the work of the government "Of unitary governments, wherever found, it may be said in criticism that it tends to repress local initiative, discourages rather than stimulates interest in public affairs, impairs the vitality of the local governments, and facilitates the development of a centralised bureaucracy"[1] While one one side the unitary system may nourish all the evils of a centralised bureaucracy, it may utterly overlook local talent and initiative on the other

5 **Vulnerability of Centre** In times of danger, a unitary government is more vulnerable than the federal Internal rebels or external enemies can easily seize the national government, which is the nerve centre of the whole country

MAIN POINTS

1 Meaning of Unitary Government Need of division of powers Supreme single central government. Provincial and local bodies under central control Centre creator and units creatures in an integrated system Supremacy of central legislature

2 Merits 1 Good for small states and for states with limited resources 2 Stability 3 Flexibility 4 Simplicity 5 Low cost

3 Defects 1 Central despotism 2 Top heavy centre 3 Side-tracking distant areas 4 Local initiative discouraged 5 Vulnerability of centre.

1 J W Garner *Political Science and Government* (1955) p 381

CHAPTER 43

FEDERAL GOVERNMENT

A Definition and Meaning of Federation

Dual Polity Written and Rigid Constitution, and Federal Court A government is known as federal, if it has a dual polity, that is, two sets of government, in which powers are divided by a written and rigid constitution, whose interpretation is made by a federal court The dual polity (the federal government or the centre and the units) owes its existence to the provisions of the constitution The federal court is also a creation of the constitution, and it is charged with the duty of interpreting the constitution and upholding its supremacy Thus, in a federation, there are two sets of authorities, instead of one integrated system of government, and each of the governments (the centre and the units) attends to its functions and exercises its powers strictly within the four corners of the written constitution Disputes between the centre and the units, or between two or more units are settled by the federal court

Foedus or Agreement The term *federation* is derived from the Latin word *foedus*, which means treaty or agreement, which is made by the different states intending to federate They all agree, by the written treaty or instrument, to form the dual polity of co-ordinate authorities, neither subservient to the other, and each having a clear constitutional field of its own

Association of States, Common Aims and Large Measure of Original Independence Several states having common aims may form an association (federation, on a constitutional, legal and permanent basis In this association, there are two sets of authorities (federal and units) surrendering their sovereignty for the common good, but at the same time, maintaining a large measure of their original independence as far as the regional matters are concerned

Like several other terms in political science, the term 'federation' is often used loosely and carelessly K C Wheare says that

The two ets of government are

(1) Federal National or Central Government

(2) Regional Governments, which may be called States (as in the USA and India), Cantons (in Switzerland) or Provinces (in Canada)

"The principle earmark of a federal system is the guarantee, by *adequate constitutional arrangements* of some degree of autonomy for major local units A division of governmental authority along territorial lines is embodied in the constitution and both the central government and the major local units may exercise their constitutionally perscribed powers as they please"[1]

The division of powers is made in such a way that national interests and the distinctness of the communities or units coming together are reconciled The individuality of the federating partners is clearly retained, while absolute sovereignty is surrendered

Allocation of Subjects In any state, there are firstly subjects of national importance and secondly subjects of regional or local importance In a unitary state, both the types of subjects are dealt with by one integrated system of government, and all powers are exercised and functions discharged by the central government and its agents But in a federation subjects of national importance are given to the federal or central government, and those of regional importance are given to the units

The allocation of subjects is made by a written constitution Considerable care is taken while dividing the subjects so that, as Bryce points out, a proper balance is maintained between the two sets of government The maximum scope is provided to the units to function freely and enjoy local autonomy Subjects of common importance and of the national level are left in the hands of the federal government The federal government moves within the frame work provided to it by the written constitution, and each one of the units, understanding its rights and limitations functions strictly within the circle drawn by the constitution

Thus, a federal government unlike a unitary government is dual Subjects of national importance like defence foreign affairs, currency, foreign trade and maritime shipping are under the control of the Central Government, and those of local or regional importance like peace and order education, civil rights, hospitals and property are under the Regional Governments

1 E B Schul *Essentials of Government* (1961) I 181

"most of those who use it agree, in this, that they have in mind an association of states, which has been formed for certain common purposes but in which the member states retain a large measure of their original independence "[1]

In a federation we discuss

(1) two sets of government constitutionally coordinate,

(2) division of powers between centre and units according to a fairly rigid written constitution,

(3) a federal court as guardian of the constitution, and

(4) supremacy of the constitution

Important Definitions K C Wheare, an authority on federalism says "In a federal constitution the powers of government are divided between a government for the whole country and governments for parts of the country in such a way that each government is legally independent within its own sphere "[2]

J W Garner says "Federal government as distinguished from unitary government is a system in which the totality of governmental power is divided and distributed by the national constitution or the organic act of parliament creating it, between a central government and the governments of the individual states or other territorial subdivisions of which the federation is composed [3]

M Stewart in his *Modern Forms of Government (1959)* defines a federation as a permanent union of communities so distinct that they might have been sovereign states so linked by common interest that they have surrendered absolute sovereignty, but so conscious of their distinctness that they have made the surrender in a form which protects those separate rights short of sovereignty itself, which they most cherish "[4]

Two Sets of Government Constitutionally Knit Together As stated above, in a federal pattern, two sets of government are constitutionally and legally knit together The status, functions and powers of each set of government are clearly and unambiguously spelt out so that each acts strictly within its own sphere assigned to it

1 *Federal Government* (1946) p 1
2 *Modern Constitutions* (1958) p 27
3 *Political Science and Government* (1955) p 318
4 Op cit p 145

The allocation of powers may be made in three ways

(1) to enumerate and to assign every power of the central government and the *divisions*,

(2) to enumerate only the powers of the centre and to give the rest to the units, and

(3) to enumerate the powers of the divisions and give the rest to the centre by a general grant

Efforts must be made "to keep the centripetal forces in equilibrium" Each federation has its own way of distributing powers according to historical conditions, the needs of the state and the genius of the people. In the USA, Switzerland, Australia and the USSR, the powers of the centre are written down, and the residuary powers are given to the units In the case of Canada, the powers of the units (provinces) are enumerated and the residuary powers are with the centre

There are three types of powers under any method of distribution

(1) powers exclusively assigned to the centre,

(2) powers given exclusively to the units, and

(3) concurrent powers, that is, powers belonging both to the centre and the units

A federal court is set up to settle *disputes* regarding the interpretation of the constitution The USA, Switzerland, Canada, Australia, the USSR, Argentina and Brazil have federal constitutions The Union of S Africa has features of both unitary and federal states India has a federal pattern, which has a strong centre

Constitutional Status of Units In a federation, the units have a *constitutional* status They are not the creatures of the centre, and the centre cannot order them as it likes The units owe their existence not to the centre, but to the written constitution

Supremacy of Constitution In a federation the constitution is supreme Neither the centre nor the units can claim supremacy Each set of government functions strictly according to the provisions of the constitution The constitution clearly defines the powers of the centre and the units and none of them shall transgress the boundaries of federal constitutional law All laws, whether made by the central legislature or by the legislatures of the units should be strictly within *the framework given by the* constitution, and any law violating the provisions of the constitution is likely to be declared *ultra vires* by the federal court

Federal Court A federal court is indispensable to a federation It is the guardian of the constitution, and settles disputes between

the federal government and the units, or between two or more units Like the centre and the units, the federal court is created by the constitution, and judges have to function according to the provisions of the constitution

Origin of Federation Though the federal sy tem, as we know it now, is clearly an American invention, even in ancient times people had some dim ideas about it "The first glimpse of the federal principle was about the third century B C (281-146) in Greece There is, however, no sufficiently clear description of federalism in Greek political thought even though the first confederacy in history was the Achaean League "[1] In the middle ages, the principle of federalism was known to some of the Italian cities (See Section F in this Chapter for Essential Features of Federation)

All federations are not exactly like one another According to the conditions prevailing in a state, federalism is modified The USA, a pioneer in federalism on a large scale drew up a federal constitution, according to the needs and genius of the American people Other countries, which chose to have the federal pattern did not fully copy the American model, but modified federalism in the light of their peculiar problems Therefore, Canada, India and Australia do not follow identical principles

B Unitary Government and Federal Government

We have already studied the salient features of the unitary and federal systems The following table summarises the difference between a unitary government (See Chapter 42 for Unitary Government) and a federal government

Unitary Government	Federal Government
1 One integrated set of government e g Britain, France, Italy and China	1 Two sets of government e g the USA, the Switzerland and Australia
2 Political divisions or provinces are integral part of government	2 Federated units have complete autonomy regarding subjects under them
3 Central government is the creator of the politcal divisions, and the provinces are its creatures	3 Central government is not the creator of the federated units Both the central government and the units owe their existence to a written constitution

1 Sobei Mogi *The Problem of Federalism* (1931) p 21

The allocation of powers may be made in three ways

(1) to enumerate and to assign every power of the central government and the divisions,

(2) to enumerate only the powers of the centre and to give the rest to the units and

(3) to enumerate the powers of the divisions and give the rest to the centre by a general grant

Efforts must be made "to keep the centripetal forces in equilibrium' Each federation has its own way of distributing powers according to historical conditions, the needs of the state and the genius of the people In the USA, Switzerland, Australia and the USSR, the powers of the centre are written down, and the residuary powers are given to the units In the case of Canada, the powers of the units (provinces) are enumerated and the residuary powers are with the centre

There are three types of powers under any method of distribution

(1) powers exclusively assigned to the centre,

(2) powers given exclusively to the units, and

(3) concurrent powers, that is, powers belonging both to the centre and the units

A federal court is set up to settle disputes regarding the interpretation of the constitution The USA, Switzerland, Canada, Australia the USSR, Argentina and Brazil have federal constitutions The Union of S Africa has features of both unitary and federal states India has a federal pattern, which has a strong centre

Constitutional Status of Units In a federation, the units have a *constitutional* status They are not the creatures of the centre and the centre cannot order them as it likes The units owe their existence not to the centre, but to the written constitution

Supremacy of Constitution In a federation the constitution is supreme Neither the centre nor the units can claim supremacy Each set of government functions strictly according to the provisions of the constitution The constitution clearly defines the powers of the centre and the units and none of them shall transgress the boundaries of federal constitutional law All laws, whether made by the central legislature or by the legislatures of the units hould be strictly within the framework given by the constitution, and any law violating the provisions of the constitution is likely to be declared *ultra vires* by the federal court

Federal Court A federal court is indispensable to a federation. t is the guardian of the constitution, and settles disputes between

Unitary Government	Federal Government
10 There can be no disputes between the centre and the provinces, as the former is superior to the latter	10 Disputes between the centre and the units, and between two or more units are settled by the supreme court, which is indispensable
11 Governmental machinery is simple and flexible	11 Governmental machinery is complex and rigid
12 Good for maintaining stability and national solidarity	12 Stability and national solidarity comparatively difficult
13 Centre may become top-heavy, and the various localities may be neglected	13 The question of top heaviness does not rise, as there is good deal of decentralisation
14 Discourages local talent, initiative and enthusiasm, and suppresses hopes and aspirations	14 Encourages local talent, initiative and enthusiasm, by giving vast scope for autonomy
15 There is possibility of despotism at the centre, and power-crazy leaders can misuse a unitary government to increase their own power	15 As the centre and the units are bound by the principles of the constitution, there cannot be despotism The centre cannot go beyond the line marked out by the constitution, similarly, the units cannot over-reach themselves and encroach on the field of the centre

C Federation and Confederation

A Confederation is an Association of Sovereign States The terms *Federation* and *Confederation* do not mean the same thing, though both have the same root It is necessary to know the difference between them

A federation is a permanent union or association of states or units in which both the sets of government come under a common sovereignty, but a confederation is an association of sovereign states formed temporarily for realising a *specific purpose*

In a federation, the centre and the federated units are bound by the provisions of a written constitution, the centre deals with subjects of national importance, and the units deal with subjects of local importance The division of subjects is made according to

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Unitary Government

4 Central government can issue orders to the provinces as it pleases, as they are subordinate to it, it can increase or reduce their powers, and can even abolish any of them

5 At the centre, there are the *supreme* executive, *supreme* legislature and the *supreme* judiciary

6 Government is highly centralised, as all decisions have to come from the centre

7 There is unity

8 Generally suitable for small countries like Britain, France and Belgium

9 Cost of administration not so high as in a federation, as there is only one set of government

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	Federal Government
There can be no disputes between the centre and the provinces, as the former is superior to the latter	10 Disputes between the centre and the units, and between two or more units are settled by the supreme court, which is indispensable
Governmental machinery is ...imple and flexible	11 Governmental machinery is complex and rigid
...Good for maintaining sta...ility and national solida...ty	12 Stability and national solidarity comparatively difficult
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the constitution But in the case of a confederation, there is no constitution binding the various member states each of which is completely sovereign, and can have the type of government it chooses The American, Confederation (1781–89), the German Confederation (1815–66), and the League of Nations (1920–39) are examples of confederations, and the USA, Switzerland, Canada, Australia and the USSR, are examples of federations

The units of a federation (except the federation of the USSR) do not have the legal right of secession, but the states of a confederation have the right

The following table summarises the difference between a federation and a confederation

Federation	Confederation
1 An association of states or units formed according to a written constitution e g the USA, Switzerland and Australia	1 An association of sovereign states formed by a treaty or agreement e g the American Confederation (1781–89), and the German Confederation (1815–66)
2 Permanent.	2 Temporary
3 Formed for the sake of a compromise between unity and diversity	3 Formed for realising a specific aim or objective
4 The centre and the federated units have a common sovereignty Units surrender their sovereignty, and the constitution is supreme	4 Each member of the confederation is completely sovereign There is absolutely no surrender of sovereignty
5 A federation, that is, its centre and its units has control over all citizens Citizens in a federation have to obey the laws of two governments viz federal and regional	5 A confederation has no control over citizens of the member states Citizens of a member state are under the control of that particular state and the confederation has no sovereign control over them
6 A federation is the result of the union of people in the various states, which make a permanent constitutional agreement surrendering their sovereignty	6 A confederation is the product of the union of states, which do not surrender their sovereignty

People in areas, which want to federate must show a conspicuous and genuine desire to come together in the interests of union Small states, which are separate and independent, but locally adjacent may develop a strong feeling that for defence, rapid economic development and other reasons, they should federate

2 **Threat of Big States** People in certain areas may be under the shadow of the military threat of big and powerful states The keen desire for survival and the continuous threat of a powerful neighbour may goad small states to come together " Thus hostility to or fear of a common enemy and the need for common defence produces the desire to unite It also provides cohesive forces which compel the communities concerned to stand together and accustom them to work together They develop common external antagonisms which override internal antagonisms "[1]

3 **Desire for Local Autonomy** The various federating units must however be anxious to retain their local autonomy If they do not retain their autonomy, what they intend to form will not be a federation In other words, they should hanker for union and not unity The desire for union must be spontaneous for the successful working of a federation The desire should be genuine, and it should be born within and not imposed from outside The people in the various federating units should have certain common aims and objectives, to come together, but they should not surrender their local or regional interests They should desire to preserve their own language, culture, their mode of living and the peculiar regional institutions whether political, social, religious or economic A federation can be formed only when people desire for a union and are prepared to bring about a reconciliation between unity and diversity

4 **Reasonable Degree of Homogeneity** The various groups in areas which desire to f erate m er from one another in different ways but st l ee of homogeneity, which is indispensa fc a federation The groups must be pre among them selves, and develop co d Racial, ling c and people a la may ma and othe

1 K C W

provided there are other strong factors to counterbalance the differences For instance, the threat of a strong and aggressive neighbouring state may compel people to sink their racial and linguistic differences and try to discover areas of common interests and sympathies A similarity in social and political institutions works as a very favourable factor " the desire for union has practically never been aroused unless similarity of political institutions was present either actually or potentially among those who envisaged the union "[1]

4 **Good Leadership** Another essential factor is wise and far-sighted leadership A federation can be formed, if people desirous of having a federation are led by leaders of great courage, breadth of vision, deep sympathy and understanding They should be able to awaken in the minds of the people the feeling to come together without submerging their individuality Much depends on leadership Bad leadership may spoil the chances of federalism There have been instances to show that leaders with sincerity of purpose, stoic patience, integrity of character, wide knowledge, statesmanship and power of eloquence were able to pave the way to the formation of federations In America, the people were fortunate to have the leadership of George Washington, Benjamin Franklin, James Wilson and others

5 **Good Calibre of People** Good calibre and genius of the people constitute another conspicuous factor Leaders will not be successful in establishing and in working out a federation, unless people themselves are public-spirited, competent and worthy of a federation People must be prepared to make the necessary sacrifice for the sake of union and show a spirit of tolerance They should study the problems confronting them intelligently, and prepare the ground for a federation If the calibre of the people matches the leadership, the formation of a federation becomes easy A federation is not meant for a people, who are ignorant and illiterate, and devoid of qualities so very essential for its success Even if a federation is formed owing to the initiative and enthusiasm of a few leaders, it will be torn to pieces before long, if the people are found wanting

6 **Love of Democracy** People must have faith in democracy as a form of government and a way of life They must have experience in running their own political institutions, and there should

1 Ibid p 46

People in areas, which want to federate ... and genuine desire to come together in t Small states, which are separate and adjacent may develop a strong feeling economic development and other reasons,

2 **Threat of Big States** People in under the shadow of the military threat states The keen desire for survival and the a powerful neighbour may goad small state "Thus hostility to or fear of a common for common defence produces the desire to cohesive forces which compel the communiti together and accustom them to work to common external antagonisms which override ii

3 **Desire for Local Autonomy** The units must however be anxious to retain the If they do not retain their autonomy, what t will not be a federation In other words, they union and not unity The desire for union m for the successful working of a federation The genuine, and it should be born within and n outside The people in the various federating u certain common aims and objectives, to come t should not surrender their local or regional intere desire to preserve their own language, culture living and the peculiar regional institutions whethe religious or economic A federation can be fo people desire for a union and are prepared to reconciliation between unity and diversity

4 **Reasonable Degree of Homogeneity** The in areas which desire to federate may differ from different ways, but they must have a degree of which is indispensable for the formation of a fe groups must be prepared to overlook differences selves, and develop common sympathies, aspirations a Racial, linguistic and religious sympathies may bi people spread over a large area and a strong desir may manifest itself However, even if there are religio and other differences, it is still possible to form a

1 K C Wheare *Federal Government* (1946) p 45

likely to look at the bigger and more powerful units with jealousy, distrust and suspicion The atmosphere in a federation is bound to get vitiated owing to imbalance, mutual hatred and suspicion

One of the essential conditions for the success of a federation is co-operation which will disappear when the component parts dislike one other owing to wide disparity In the federation of the German Empire formed in 1871, the predominance of Prussia violated the federal principle

In federations in which some units are small, the imbalance is rectified in two ways

(1) by giving equal representation to all units big or small in the second chamber as is done in the USA, Australia, Switzerland and the USSR

(2) by seeing that amendments to the constitution are valid when they are ratified not only by the majority of the people, but also by a majority of the units

9 Adequate Economic Resources As already observed earlier, a federal type of government is definitely more expensive than the unitary type Two sets of government have to be maintained Each federating unit has its own governmental machinery to deal with subjects under its control All this means the availability of adequate economic resources If a federated unit has to depend permanently on the centre for the balancing of its budget, the federation can never work smoothly This is because the unit may feel that financially justice is not being done to it, while the centre may feel that it is doing far above the federal principle The paucity of economic resources in a couple of units is bound to go against the principle of equality of status Countries which cannot afford the heavy governmental expenditure should not choose a federal type of government to them a federation will be a very expensive luxury

When federal constitutions are being framed, the constitution-makers should carefully examine the problems confronting a federation and ensure that the constitution provides as little scope as possible for people to enter into controversies

A federal government can function smoothly only when

(1) a satisfactory division of powers between the centre and the units is made,

(2) justice is done to all areas,

not be much difference between the political institutions of one area and those of the others If any region is in favour of a dictatorial form of government, it will be harmful to the interests of others, who wish to have democracy It is taken for granted in a federation that there is equality of status among the states Dictatorship in any of the regions is bound to spell disaster on the remaining areas of a federal state

However, it is wrong to think that democracy and federalism are inseparable E B Schulz says "The fact of the matter is that there is no necessary relationship between democracy on one hand and unitary or federal systems on the other Various countries with a unitary system have democratic political institutions e g Great Britain, France and Norway, others have authoritarian governments Federalism and democracy exist side by side in the United States, Switzerland, Canada and Australia, but in Germany of 1871–1918 the federal system was combined with aristocratic government both nationally and in the major political divisions "[1] The USSR is a dictatorship, though the constitution is federal

K C Wheare thinks differently, and says that "dictatorship with its one-party government and its denial of free election is incompatible with the working of the federal principle Federalism demands forms of government which have the characteristics usually associated with democracy or free government "[2]

7 **Geographical Contiguity** People, who desire to form a federation should not be scattered over areas, which are separated from one another by water or by foreign states There should be geographical contiguity, as it is essential for political, economic and military reasons There is geographical contiguity in the federations of the USA, Canada, Switzerland, Australia and India

8 **Equality among Federating Units** If a federation should work successfully, there should be equality of status among the federating units Equality does not mean absolute equality, but the absence of wide disparity between one unit and another If a unit in a federation is far better placed than the rest in size, population and economic resources, there is bound to be imbalance This imbalance will surely violate the principle of equal partnership among the federating units The smaller units are

1 *Essentials of Government* (1961) p 191
2 *Federal Government* (1946) p 48

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A federal government can function smoothly only when

(1) a satisfactory division of powers between the centre and the units is made,

(2) justice is done to all areas,

(3) healthy relations are maintained between the centre and the units, and between one unit and another,

(4) small units feel as secure as the relatively big ones, and

(5) the method of amending the constitution is reasonable

E Examples of Federation

We have noted earlier that the USA, Switzerland, Canada, Australia and the USSR are examples of federation India has to be treated separately, as it combines the features of the unitary system with those of the federal

1 The United States of America

Confederation Till 1776, the thirteen American colonies were separately linked with Britain, and were under her control A Continental Congress in 1777 drew up the articles for an American Confederation, which lasted from 1781 to 1789 The colonies, which rebelled against England made the Declaration of their Independence according to which they were to be independent of Britain, and also independent of one another The common enmity towards England and the desire to win the war of independence against England prompted the colonies to form a Confederation (1783) known as the United States

Great Weakness of Confederation By the Treaty of Paris (1783) the colonies became independent But there was the danger of fissiparous tendencies, as the confederation consisted of dissatisfied member states "The confederation thus established conformed as a writer puts it to the idea of a co-operative system of sovereignties The sense of separate independence among the colonies was too keen and their mutual suspicion too strong for any union with a sovereignty of its own to be formed at this time "[1] In such a pattern, it was not possible to build a strong nation

The causes of weakness were

(1) According to the articles of the Confederation, the Congress was weak, and it could not deal effectively with recalcitrant members

(2) The Congress was "a body of delegates which had no power to compel the states to its will and no power to command or to tax the individual citizens of the thirteen states "

(3) The Congress "was to look after foreign relations, declare and conduct war, build and equip a navy, and issue requisitions upon the states for soldiers and for funds "

1 N C Roy *The Federal System of the U S A* (1940) p 18

(4) The Congress was woefully weak, as it could only pass resolutions without the requisite authority to make law and enforce it in the states

Abolition of Confederation and Establishment of Federation Seeing the weaknesses of the Confederation, several far-sighted leaders felt that there was an urgent need to stabilise their independence, consolidate their gains, follow a uniform commercial policy, and take steps to bring the general uplift of all states This could be done by abolishing the confederation and establishing a federation On May 14, 1787 the delegates at the Convention of Philadelphia decided to draft a new constitution, which brought about *a reconciliation between the powers of the central* and the powers of the states, and also eliminated the dependence of the central government on the state governments The central government was armed with adequate powers to deal with and make laws on subjects given to its jurisdiction The powers and functions of the central government were clearly defined, and the remaining powers were to belong to the states

By the end of 1787, three states ratified the constitution, the other states agreed to have the new constitution after some time On June 21, 1788 the constitution was adopted, and it came into effect on March 4, 1789

Residuary Powers with States A very important feature of the American federation is the relative weakness of the centre and a large measure of autonomy enjoyed by the states The constitution enumerates the powers of the central government, and the residuary powers are with the states Within their own spheres, the central government and the states are to be supreme The states in the USA enjoy far more powers than their counterparts in India and Canada While these two federations have a strong centre the USA has a comparatively weak centre

USA as Pioneer in Federalism The establishment of the federal constitution of the United States of America is a great landmark *in the field of constitution-making The USA became a model* to other peoples having problems similar to those of the Americans Mexico, Brazil and Argentina followed the example of the USA The Americans with their dynamic and far-sighted leaders, a sober and pragmatic approach, and with determination to make a success of the federal system became pioneers in federalism K C Wheare significantly points out "The modern idea of what federal govern-

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ment is has been determined by the United States of America Indeed the words *federal* or *federation* occur nowhere in the American Constitution Nonetheless it has always been called the 'Federal Constitution' Any definition of federal government which failed to include the United States would be thereby condemned as unreal "[1] The Americans gave the first large scale example of a written constitution with a federal pattern

2 **Switzerland**

Danger of Secession The federal constitution of the USA was a source of inspiration to the people of Switzerland Like the American confederation which was vulnerable, the Swiss confederation also faced a great challenge in 1847, when seven Catholic cantons made efforts to secede The Protestant majority crushed the secessionist movement of the Catholics, and paved the way for national unity

Swiss Confederation with Strong Centre The Swiss then had a new constitution called the Swiss Confederation after the American model The Swiss constitutionalists spoke in terms of the Swiss Confederation, though it was a real federation Thus in the official title the term *Confederation* is misleading

The centre in Switzerland is stronger than the centre in the USA The Swiss centre can militarily intervene to a greater extent than the centre in the USA

Residuary Powers with Cantons In Switzerland and in the USA, the residuary powers are given to the units Unlike in the USA in which the federal government directly administers its own laws through the federal officials in Switzerland federal subjects are administered by the officials of the cantons Thus, there is administrative decentralisation in Switzerland

Federal Tribunal While in the USA the Supreme Court can declare a federal law unconstitutional, the Federal Tribunal in Switzerland is not competent to do so, it can only declare cantonal law unconstitutional Thus the court is not the guardian of the constitution, as its power of judicial review is only concerning cantonal legislatures In the USA in the category of the Supreme Court there are ten Federal Circuit Courts of Appeal and eighty five subordinate Federal District Courts but in Switzerland there are no courts belonging to the category of the Federal Tribunal, and so it has no subordinate courts

1 *Federa Government* (1946) p 1

Referendum for Constitutional Amendments Unlike in the USA, in Switzerland a constitutional amendment cannot be valid, unless it is adopted in a referendum by a majority of voters and by majority of the cantons

No Right to Secede As in the USA, in Switzerland also, the units have no right to secede

3 Canada

Canada's position was weak and precarious, as the British and the French nationalities were dead against each other Racial, economic and military problems made it appear that a unitary government was not suitable for Canada

In 1867, the British Parliament passed the North America Act, and the Dominion of Canada was born

Strong Centre with Residuary Powers Seeing the USA's national unity in serious jeopardy during the Civil War (1861-65), Canada did not follow the American example regarding the distribution of powers In the Canadian Constitution there is a list of enumerated subjects assigned to the exclusive jurisdiction of Provinces (Federated units), over the remaining subjects the Dominion Government is to exercise control Thus the residuary powers in Canada are with the centre and not with the states as provided in the American Constitution

For the sake of clarity, the subjects under the control of the Dominion are enumerated, though it is quite clear that all residuary powers are vested in the Dominion Government The Centre in Canada is very strong, while the Centre in the USA is relatively weak Federalism has been slightly diluted in Canada

In making the Union Government strong in India, the founding fathers of the Constitution followed the Canadian example

4 Australia

Threat of Big Power Defence and other problems made the six Australian colonies give up their rivalries regarding tariffs, railways and other matters, and form the Commonwealth with a federal system Particularly the real threat of a big imperialist power brought about a great urge among the states in Australia for union in 1900

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the forms of government differ greatly between one colony and another Yet each by virtue of its geographical position, had its own economic interests and they were separated from each other by vast unpopulated stretches of land "[1]

Residuary Powers with States The Commonwealth of Australia took birth on January 1, 1901 According to the Constitution, the centre is given very wide powers, and the residuary powers are with the federating States

No Right to Secede The units have no right to secede

5 **The Union of Soviet Socialist Republics**

Residuary Powers with Constituent Republics To bring about a union of various nationalities and tribes, a federal government was established in Russia in 1936 According to the 1936 Constitution, the powers of the Union Government are specified, and the residuary powers are with the constituent republics

Right to Secede It must be noted here that the republics have the right to secede technically speaking

Theory and Practice There is however a vast difference between theory and practice in Russia " if one examines the actual operation of the system, it becomes apparent that federalism as known in the United States and Canada is not to be found in the USSR Prof Wheare an authority on the general topic of federalism, regards the constitution of 1936 as 'quasi-federal' but he does not consider the USSR a working example of federal government "[2]

6 **India**

Combination of Unitary and Federal Features India is an example of a state, which combines the features of a unitary state with those of a federal state The Union (Central) Government in India is stronger than the centre of any other federation In the Constitution itself, there is provision to convert the federal state into a unitary state in times of emergency Michael Stewart in his *Modern Forms of Government* (1959) describes the Indian Union as "a hybrid between a federal and a unitary state "[3] Wheare regards it as a "quasi-federal constitution"

According to the Constitution of India, which came into force on January 26, 1950, India is a Union of States The word 'fede-

1 M Stewart *Modern Forms of Government* (1959) p 143
2 Ogg and Zink *Modern Foreign Governments* (957) p 850
3 Op cit p 62

ration' has not been used in the Constitution of India as a federation cannot be put in the category of the USA and Switzerland

Strong Unitary Bias The following features of the Indian Constitution show its unitary bias

1 Three Lists with Residuary Powers with Centre There are three lists of subjects the Union List, the State List and the Concurrent List Unlike in the USA, residuary powers are with the Centre The distribution of subjects in the three lists is in favour of the Union Government Ninety-seven subjects are in the Union List, while only sixty-six subjects are in the State List In the Concurrent List, there are forty-seven subjects on which both the Union and the State Legislatures can pass laws The most important subjects with wide powers have been given to the Centre, and the relatively unimportant ones have been given to the States

In case there is a conflict between a Union law and a State law, the former supersedes the latter

The Union Government can make law on any subject, even on the one in the State List, if it is declared by the Rajya Sabha (Upper House) that it has assumed national importance Such a law remains in force for not more than a year, but the period can be extended

States have to obey the directions given by the Union Government

2 Wide Powers of the President The President of India enjoys the following powers

(1) He appoints the Governors of States

(2) When there is an emergency in a state, owing to the breakdown of its constitutional machinery, the Governor becomes the agent of the centre

(3) A bill passed by a State legislature may be reserved by the State Governor for the consideration of the President

(4) In times of Emergency the President can assume extra ordinary powers, and Parliament can make laws even on a subject which is in the State List

All these powers of the President make the Centre very strong

3 One Citizenship Unlike in the USA and Switzerland, in India there is only one citizenship

4 One Judicial System In India, there is only one unified judicial system, but in the USA federal courts cannot interfere

in the affairs of the state courts, and federal court and the state courts work in parallel lines In India, the Supreme Court, (which is the federal court) and the High Courts belong to the same integrated judicial system

5 **No Right to Secede** States in India are not given the right to secede The right to secede is found in the constitution of the USSR

F Essential Features of a Federation

True Test of a Federation Some scholars are of the opinion that a constitution can be regarded as really federal, if the powers of the federal government are enumerated, and the residuary powers are assigned to the units According to this principle, the USA, Switzerland and Australia are federations Wheare, a great authority on federalism does not agree with this view, and says that this principle is relatively superficial The basic feature of a federation is the constitutional division of powers between the centre and units This means that neither the national nor the regional government is subordinate to the other Neither is supreme, and it is the constitution that is supreme Wheare says "It is true that the question where the residue of power is to rest is an important question in framing a federal government It may effect the whole balance of power in a federation It is likely also that when previously sovereign states federate, they will not sign a blank cheque But these are not essential to the federal principle They may be usual characteristics of governments which are federal, but they themselves do not make government federal"[1]

The most important difference between a unitary government and a federal government is that in the former the units are subordinate to the centre, while in the latter regional governments are not subordinate, as they owe their existence and powers to a constitution

Let us now study the most essential features of a federation. A written constitution, a federal court, and rigidity of constitution are the most essential features of a federation A bicameral legislature is desirable, though not quite essential

1 **Dual Polity and a Written Constitution** To a federation, a dual polity and a clearly written constitution are absolutely essential The units in a federation, which has a dual polity (Centre and Units) must feel, that their autonomy is constitutionally

1 *Federal Government* (1946) p 13

safe, and that the central government is not allowed to encroach on their field Hence, it is essential to put in black and white the powers of the centre and of the units It is only when there is a written constitution that the centre and the units clearly know their respective powers and limitations to their powers There will be never-ending controversies and disputes between the centre and the units, if the powers of both are not put in a definite written form A clear and carefully worded federal constitution, free from any type of ambiguity, ensures the position and status of the centre and of the units

2 **A Federal Court** Even when the authors of a federal constitution try to make everything precise, it is likely, that on occasions, differences of opinion between the centre and the units may arise Therefore, an authority to interpret the provisions of the constitution and to settle disputes between the centre and the units, or between two units, becomes essential

A federal court owes its existence to the constitution, and it is in no way under the control or influence either of the centre or of the units The court is empowered to give its verdict impartially, without fear or favour, and act as the watchdog of the constitution The appointment and service conditions of the judges are in accordance with the articles of the constitution, and they ensure the independence of the judiciary

In the USA and Australia, courts settle the disputes between the centre and the units, but in Switzerland and the USSR, the judiciary has no power to pronounce a federal law as unconstitutional In Switzerland, constitutional laws are subject to the referendum and the initiative In India, the Supreme Court functions independently as a federal court, and acts as the custodian of the constitution

3 **Rigidity of Constitution** A federal constitution has to be rigid, and constitutional law has to be placed above ordinary law A special procedure for amending the constitution has to be provided Amending the constitution is made difficult, and several meaningful hurdles are created to prevent the constitution from being made into a toy in the hands of scheming politicians *

It is likely that certain interested parties at the centre or in the units may find certain provisions in the constitution unpalatable and irksome, and they may try to remove these "offending" provisions to suit their convenience To prevent meddling or

are regarding Article 2 (concerning the admission and formation of new States) and Article 3 (relating to the formation of new States and alteration of areas, boundaries and names of existing states) In fact "no such law (i e the one pertaining to the formation of new States etc) as aforesaid shall be deemed to be an amendment of this Constitution for the purpose of Article 368" (Article 368 lays down for a two-thirds majority)

(2) Amendments which can be passed by a special majority as provided by Article 368

(3) Amendments which cannot be passed without ratification or approval of the legislatures of not less than half of the States

Desirability of Bicameral Legislature A bicameral legislature is highly desirable for a federation In the USA, the Senate, the second chamber gives equal status to all the units by having an equal number of members from each irrespective of its size and population The Senate has 100 members, two from each of the 50 States The second chamber guards the interests of the units against any amendment, which might weaken them However, it must be noted that a second chamber is not essential, though it is of great significance

In India, the States do not have equal representation in the Rajya Sabha at the Centre The number of members from a state depends upon the population The US Senators are directly elected, while members of the Rajya Sabha are indirectly elected

G Evaluation of Federal Government

We shall now discuss the merits and defects of the federal form of government

Merits The federal system has the following merits

1 For Union of Small States A federation provides scope for small states to come together for solving their political, economic and military questions The modern times have witnessed the rise of large territorial states, and in their midst the existence of small states is precarious Small states can find a solution to their difficulties in a federation without losing their autonomy

2 Scope for Autonomy Another merit is that a federation provides vast scope for local autonomy In large countries in which there are various types of groups, the different regions can come together in a federation without losing their identity They will have the double advantage of building a strong nation and of retaining their local autonomy "The principal argument in favour

tinkering with the constitution, the authors of a federal constitution make it rigid

The power to amend the constitution should not be vested exclusively in the centre or in the units "A sharing of amending authority is necessary, unless the constituent power be vested in some neutral agency Otherwise, either the central autorities or the political subdivisions could establish a monopoly of governmental power "[1] The method of amendment should be such that full justice is done to the centre and to the regions

Amendment in USA The constitution of the USA is rigid Article V of the constitution says "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress "

Amendment in India The Constitution of India is a mixture of rigidity and flexibility

The procedure for amendment is given in Article 368 It says

(1) A bill for amendment has to originate in one of the two Houses of Parliament

(2) It has to be passed by (a) the total majority of the membership of the House, and (b) a majority of not less than two-thirds of the members present and voting

(3) A bill for amendment cannot be introduced in any State Legislature

(4) A bill for amendment is to be passed in the same way as an ordinary bill

(5) Any provision of the Constitution can be amended Even Articles regarding Fundamental Rights can be amended

Three Types of Amendments An amendment means "an addition or change within the lines of the original instrument as will effect an improvement or better carry out the purpose for which it was formed' Amendments are of three types

(1) Amendments which can be passed by a bare majority as those which are adequate for the passing of ordinary law These

1 L. B. Schul. *Essentials of Government* (1961) p 182

are regarding Article 2 (concerning the admission and formation of new States) and Article 3 (relating to the formation of new States and alteration of areas, boundaries and names of existing states) In fact "no such law (i e the one pertaining to the formation of new States etc) as aforesaid shall be deemed to be an amendment of this Constitution for the purpose of Article 368" (Article 368 lays down for a two-thirds majority)

(2) Amendments which can be passed by a special majority as provided by Article 368

(3) Amendments which cannot be passed without ratification or approval of the legislatures of not less than half of the States

Desirability of Bicameral Legislature A bicameral legislature is highly desirable for a federation In the USA, the Senate, the second chamber gives equal status to all the units by having an equal number of members from each irrespective of its size and population The Senate has 100 members, two from each of the 50 States The second chamber guards the interests of the units against any amendment, which might weaken them However, it must be noted that a second chamber is not essential, though it is of great significance

In India, the States do not have equal representation in the Rajya Sabha at the Centre The number of members from a state depends upon the population The US Senators are directly elected, while members of the Rajya Sabha are indirectly elected

G Evaluation of Federal Government

We shall now discuss the merits and defects of the federal form of government

Merits The federal system has the following merits

1 For Union of Small States A federation provides scope for small states to come together for solving their political, economic and military questions The modern times have witnessed the rise of large territorial states, and in their midst the existence of small states is precarious Small states can find a solution to their difficulties in a federation without losing their autonomy

2 Scope for Autonomy Another merit is that a federation provides vast scope for local autonomy In large countries in which there are various types of groups, the different regions can come together in a federation without losing their identity They will have the double advantage of building a strong nation and of retaining their local autonomy "The principal argument in favour

of federalism is that a constitutional guarantee of local autonomy serves as a reasonably effective barrier to over-centralisation"[1] It was for this reason that the USA, the USSR, Switzerland, Canada, Australia and India became federations

3 Prevents Rise of Despotism Federalism is an antidote to central despotism A federation brings about wide decentralisation of power and does not allow power to fall exclusively in the hands of the centre While a unitary government facilitates the despotic power of the centre, federal government prevents it

4 Unity with Diversity A federal government blends unity with diversity In large countries in which there is diversity in race, language, religion and culture, federalism is an ideal solution Each small cultural group in a region is anxious to retain its complexion, it does not wish to merge with others, as it fears that its identity may be lost At the same time, it cannot have a state of its own and even if it has, its existence may become precarious History bears witness to large states preying on small states, and therefore having a separate existence is not advisable The only alternative open to them is to join a federation, which brings about a reconciliation between unity and diversity

5 Scope for Training A federation provides ample scope for training in the political field A federal state is a large laboratory in which there is a scope for experimentation Each unit of a federation has full autonomy in its own sphere to do whatever it likes without waiting for the courtesy or the pleasure of the centre It can conduct political experiments and try to put on a permanent basis what is good from the long range point of view Generally, in federations democratic principles are upheld People can take full advantage of all the democratic institutions, and in a free atmosphere can live and let live, and learn from one another

6 State not Vulnerable Unlike a unitary government, a federal government is not vulnerable, particularly in times of emergency A unitary government may be destroyed, when internal rebels or foreign aggressors attack the central government, the nerve centre of the entire country But, in the case of a federal government, there are different nerve centres, and government cannot be destroyed easily

1 E B. Schul , *Essentials of Government* (1961) p 189

R G Gettell summarises the merits of the federal system in his *Political Science* (1956) "The federal form of government stimulates interest in political activity, enables small areas to try experiments that might be dangerous if applied to the entire country, diminishes the dangers that threaten a state composed of diverse nationalities or interests, and relieves the central government of many burdensome functions"[1]

Defects Now we shall briefly deal with the drawbacks of the federal system They are as follows:

1 Expensive A federal form is more expensive than a unitary one, as two sets of government are required Only countries which can command adequate resources can have the federal form, "It is financially expensive, since there is much duplication of administrative machinery and procedure It is wasteful of time and energy, in that in depends on much negotiation, political and administrative, to secure uniformity of law and proper administrative fulfilment thereof"

2 Complex Structure The governmental machinery is complex An ordinary man, not having at least some knowledge of political science in general and of federalism in particular, is not able to understand the complex governmental pattern, multiplicity of authorities and jurisdiction, and the relationship between the two sets of government How many people in a country like India have adequate knowledge of the federal structure? Simplicity, an important feature of a unitary government is conspicuous by its absence in a federal form

3 Controversies and Disputes There may not be co operation and co-ordination between the centre and states in a federation "... federalism may result in lack of co-ordination between the policies of the central government and those of the major political subdivisions But if there be unwillingne s to co-operate there is no simple way of rectifying the situation"[3] In spite of the precautions taken by the makers of a federal constitution, controversies and conflicts between the centre and the units are bound to rise As times change, it may become necessary for the centre to pass certain laws to meet the requirements of the

1 Op cit p 238

2 H Finer *The Theory and Practice of Modern Government* (1961) p 184

3 E B Schulz *Essentials of Government* (1962) p 192

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people in a changed context, but any attempt by the centre to pass legislation will be resented and opposed It is also possible that some units may maintain low standards of administration, but no effective remedial measures are possible

4 **Difficulty in Foreign Policy** Particularly in the field of foreign relations the weakness of the federal system may be exposed The agreement made by the centre with a foreign state may not be acceptable to a federated unit The centre, for instance, in the USA may promise a state in Asia or Africa that it will not countenance racial discrimination, but all the states may not uphold this The centre becomes helpless, because the states may have the authority to act as they please in the case concerned This not only leads to a rift between the centre and the states, but also brings about ill-feeling between the USA and a foreign state

5 **Divided Loyalty of People** A state having a federal government may not be able to command as much loyalty as a state with a unitary government, because in the former the loyalty of the citizen is divided between the centre and the units, but the loyalty of the citizens in the latter is undivided Not only the loyalty of citizens, but the loyalty of a unit also may not be firm The possibility of a unit trying to secede from a federation cannot be ruled out. In the constitution of the USSR, secession is allowed In the USA unity was threatened by the attitude of the southern States, and they were forced to remain in the federation by an actual civil war, in which they were defeated However, experience shows that the fear of secession is rather a theoretical weakness than an actual one

6 **Not so Efficient as Unitary System** A federal system is not so efficient as the unitary system In uniformity, in national solidarity, in efficiency of services, in prompt and energetic action, and in several other matters, a federal government lags behind a unitary government In India, a federal state, it is said that the food problem would not have been so acute, as it is today, had there been a unitary system So also, fissiparous tendencies in India would not have been so strong in a unitary pattern As a rule, a federal government is weaker than a unitary government

H Problems of Federalism with Special Reference to India

A federal government has to face several problems As we have already observed earlier, it is a complicated system with a

dual polity demanding difficult pre-requisites, which if not present, the federal government may break down under heavy strain

The following problems of a federal government can be mentioned

(1) Problem of Power Equilibrium The problem of equilibrium or balance of powers between the Centre and the Units is a difficult one Even though, a carefully written constitution distributes powers between the two sets of government on mutually agreed fair principles, in course of time, the equilibrium may be disturbed by the new needs and challenges of a dynamic society The centre may try to exercise more and more power to enlarge the social services but the states may resent the attitude of the centre, however right it may be As times change, a new balance of powers between the centre and the units may have to be struck, but if the two sets of government do not reconcile their differences regarding distribution of powers, the federal system may become unworkable and may not serve the original purpose for which it was formed

(2) Disputes In a dual polity, both the authorities (the centre and the units) have to work with a truly federal spirit While each set of government is right in sticking to the articles of the written constitution, it should not try to sacrifice the federal spirit by making a fetish of the constitutional provisions As times change, the spirit of true federalism changes For instance, there was a time in the USA when maintaining slaves was considered as a right and the Supreme Court in 1857 held the law against slavery as invalid In the time of Abraham Lincoln, the Southern States in the USA threatened even to secede on the question of slavery The US federal structure came under heavy strain, and the country was on the verge of disintegration It was only victory to the Northern States in the Civil War (1861-65) that saved the American Federation As the Americans failed to solve their question of slavery at the conference table, they had to go to the battle field, where the verdict of victory to the North clinched the issue

However, it has to be conceded that after the Civil War, owing to the farsighted statesmanship of American leaders and the genius of the American people, the wounds of the War were healed, and the USA emerged stronger than what she was before the Civil War

(3) Attitude of the Judiciary A judiciary in a federal state has to exercise its jurisdiction with utmost impartiality and independence while upholding the supremacy of the Constitution But at the same time, it has to exercise imagination in interpreting the provisions of the constitution, A rigid, wooden and unsympa thetic attitude of the judges may spell as much harm as their partisan attitude An unimaginative, unsympathetic and self-righteous judiciary may itself create a great problem with its misguided overenthusiasm

In the USA, the Supreme Court came in the way of President F D Roosevelt's *New Deal* E S Griffiths observes "*Because* several of the cardinal economic measures of the *New Deal* were thrown out by the Supreme Court, in 1937 President Roosevelt made his proposal which came to be known as the *court-packing* bill Under this measure, he would have been empowered to appoint an additional judge for each sitting judge who had passed the age of seventy The motive was so obvious and the sense of propriety so outraged that the measure never passed However, the move seemed to have an effect, for certain judges voluntarily retired and others were apparently more receptive to the extensive economic controls subsequently instituted "[1]

(4) Problem of Leadership Selfish, narrow-minded, ignorant and power-hungry leaders, who cannot understand the implications of federalism may wreck a federal system The leaders at the federal level and the leaders at the level of the federated units should be rational, patriotic and tolerant, and capable of under standing a true federal spirit, which stands for national solidarity and regional autonomy and which strikes a sensible and sound balance between the centripetal and the centrifugal forces Good leadership is capable of making a success even of an imperfect federal constitution, while incompetent, self-aggrandizing, short-sighted and fanatical leadership will spell the doom even of a well-worded federal constitution

(5) Problems Posed by People No federation can function smoothly, if the bulk of the people are not equal to the great task of implementing a federal constitution What should the people do? The people scattered in the different units of the federation should support the right leadership, expose bad leaders and withdraw their support from such leaders They should show

1 *The American System of Government* (1966) p 171

the spirit of co-operation, and be ready for settlement of disputes in a peaceful and constitutional manner

People, who unjustly foment trouble or lead rebellions against the centre, attempt to strike at the root of federalism, so too, people of one unit, who hate people of other units on emotional, religious, linguistic or racial grounds seek to undermine federalism

As stated earlier, people of the Southern States in the USA reached the point of no return in connection with the problem of slavery, and refused to have any type of reconciliaton with the people of the North

In the Swiss Federation (technically called Confederation), Catholics hated Protestants, and the Catholic Cantons tried to secede However, the Protestant majority could crush the secessionist move of the Catholic minority

(6) Problem of Finance One of the greatest problems facing a federation is of distribution of finance All units in a federation may not be equally affluent The principle on which financial distribution takes place must be realistic, but at the same time fair No unit should feel that it has been left in the lurch Financially, justice has to be done, and care has to be taken to ensure that no unit nurses a grudge on the ground that it has been left financially high and dry

(7) Emotional Problem While solving the various problems in a federation, the feelings of the vast multitudes of people should be gauged, and efforts should be made to conciliate people, who rightly or wrongly feel hurt Sometimes, people misunderstand central leadership or leadership in other units, and nourish imaginary grievances However unjustified these may be, they should not be ignored, but should be met with patience, courage, sagacity and imagination

A federation is not an end in itself, but only an instrument for meeting the requirements of a state, in which two co-ordinate authorities are expected to function strictly according to the constitution It is left to the human beings to use the constitution intelligently and wisely and work it out satisfactorily

Problems of India as a Federation

We have noted that India is a unique type of federation (See earlier part of the Chapter for details)

Two decades have passed since India became a Union of States on January 26, 1950 The federation (or quasi-federation

forces, and the requisite harmony is jeopardised Unless people in all the States of India are emotionally prepared to survive as a nation following federal principles, the country will have to face worse days in the future than at present

In the midst of regional pulls, many people hanker for the unitary system

(4) Unhealthy Trends in Political Parties The trends in almost all the political parties that count in India are deleterious to the cause of federalism Until recently, the Indian National Congress had done much for the cause of federalism and parliamentary democracy But in 1969, when the party split into two factions, nicknamed Indicate or Cong (i) and Syndicate or Cong (o), the political game became ugly The posture and stance of each one of the factions at the Centre and in the States have been contrary to the spirit of the federal Constitution

In the South, the Dravida Munnetra Kazhagam had nursed a move to secede in the name of Dravidastan, and the Constitution was amended to counter this move The Tamil Nadu (originally called Madras) Government, now run by the DMK, since the party captured power after the Fourth General Election (1967), does not seem to have healthy respect for federal principles It has been openly preaching in terms of expanding the regional autonomy, which is a euphemism for furtive secessionist move On March 8, 1970 the Tamil Nadu Chief Minister, Mr M Karunanidhi said at Madras that if parliamentary means fail to achieve the DMK's objective of a provincial autonomy and a loose federation at the Centre, the DMK would launch an agitation [1] The Karunanidhi Government set up a Committee consisting of three eminent men of the State, Dr Lakshmanaswamy Mudaliar, former Vice chancellor of the Madras University Dr Rajamannar, former Chief Justice of the Madras High Court and Dr Chandra Reddy, another former Chief Justice of the Madras High Court and former Governor of Tamil Nadu to formulate proposals for enlarging the powers of the State [2]

In various degrees, the other political parties also have damaged the principle of federalism

Change of party loyalties, party defections for the sake of seizing power, favouritism shown by the Centre to certain States,

1 *The Times of India* March 9 1970

2 *Himmat* March 6 1970

partial attitude of Governors, and efforts to topple State Ministries have done incalculable harm to federalism

(5) Gordion Knots in Inter-State Relations and Centre-State Relations The spirit of co-operation, which is indispensable in a federation is conspicuous by its absence in several States A State may not be prepared to co-operate with its neighbours, and may be also unwilling to be on good terms with the Centre River water disputes, boundary disputes, disputes over cities like Chandigarh and Belgaum, disputes over locating Steel Plants and other large Undertakings, disputes over national language and medium of regional instruction, and other disputes have vitiated the atmosphere endangering the federal body politic

Given the will, most of the disputes can be solved, but linguistic chauvinism, regional patriotism, false prestige, and stubbornness have converted these disputes into veritable Gordion knots

With reference to Chandigarh, the Sikhs in the Punjab held out a massive threat, and finally the problem was solved in favour of the Punjab leaving Haryana to sulk helplessly In the Mysore-Maharashtra dispute the former has warned the Centre of dire consequences, if it does injustice to it, while the latter is not prepared to budge an inch Here again, much avoidable fear, suspicion and misunderstanding have been created by the vacillation and unsympathetic leadership at the Centre

The failure to set up a proper machinery to solve various kinds of disputes, even though many precious lives were lost and property worth crores of rupees was destroyed, shows how leaders have badly let down the federal constitution The leaders owe it to the Constitution and to the people of India to follow the provisions of the Constitution both in letter and spirit The vacillation of leaders, their unwillingness to judge issues on merits, the want of moral courage to act rightly and the inclination to placate the aggressive sections of the population have embittered Centre—State relations

(6) Efforts to Belittle the Judiciary The enemies of the federalism have not spared even the judiciary, which undoubtedly has functioned satisfactorily in interpreting and upholding the provisions of the Constitution Any effort to denigrate the Supreme Court, or the High Courts, which alone can act as the watch dogs of the Constitution will further endanger the cause of federalism

The Centre, desirous of neutralising the verdict of the Supreme Court in the Golaknath Case in 1967, wished to pass Nath Pai's

to the *requisite extent* This, undoubtedly has been the thin end of the wedge The Constituent Assembly, it seems, failed to note that India was not prepared for the federal system

Several provisions of the Constitution have been worded vaguely and ambiguously, and as it has been alleged, the Constitution has become a paradise for lawyers

The Constituent Assembly, which was dominated by the Congress Party, in which Pandit Jawaharlal Nehru, Sardar Patel, Dr Rajendra Prasad (the Permanent Chairman) and a few others could make themselves felt, must have presumed that the Congress was likely to remain in power for a long time This presumption proved to be wrong particularly after 100 Congress Ministers were unseated in the Fourth General Election (1967)

The federal pattern is in troubled waters At the Centre, particularly after the break up of the Congress in 1969, we see an undeclared coalition government at the Centre with Smt Indira Gandhi of the Congress Party as Prime Minister Smt Gandhi has to depend on the DMK and the Communist votes in the Lok Sabha for the stability of her Government This new development has a bearing on the Centre-State relations Smt Gandhi has been compelled to be soft towards the Tamil Nadu DMK Ministry, as the DMK support is needed in Parliament The Prime Minister s attitude towards certain State Ministries is different from that towards certain other State Ministries

Certain States like Gujarat have alleged that the Centre is unfair to them, owing to political reasons Mysore also feels sour about the attitude of the Centre Thus in recent years, the misunderstanding between the Centre and the States has further complicated Centre-State relations

I The Future of the Federal System

Strong Trend of Centralisation

In USA The actual difficulties experienced by federations like the USA, Switzerland and Australia make statesmen and thinkers apply their minds seriously to the question of the position of the centre "Writers hold conflicting views on the future of federalism According to some, it is merely a transition stage bound to give way to the unitary principle in the long run"[1] The principle of leaving the residuary powers to the units, as experience bears witness, has weakened the position of

1 J P Suda *Elements of Political Science* (1952) p 341

the centre This explains why in the USA the constitutional amendments were introduced

In the light of the new difficulties experienced by the rulers in the USA, which perhaps the makers of the constitution did not anticipate, a broad interpretation of constitutional provisions in favour of the federal government was given The Supreme Court, which upheld the Doctrine of Implied Powers went far in strengthening the hands of the centre According to this principle, the Congress in the USA, as Article 8 of the Constitution is interpreted, is authorised to enact legislation on subjects, which are implied or latent, though not specifically mentioned in the constitution

Besides judicial decisions, the other factors which facilitated centralisation were the centre-state co-operation to deal with new problems and the participation of the national government in the financial affairs of units "By 1919, federal authority had been stretched to the point where it could employ two million civil servants on its legitimate peace-time concerns The Supreme Court, aided by the arbitrament of arms in the Civil War, has confirmed the indissolubility of the Union and enormously strengthened the position of the federal government *vis-a-vis* the state"[1]

In Canada In Canada, the constitution-makers seeing the difficulties of the federal government in the USA decided to make the centre strong

In India In India, the constitution has a *unitary bias* This again shows the trend of centralisation The strong centre in India, in contrast to the relatively weak centres in other federations can be explained by the peculiar conditions prevailing in *India* The masses of people in India are not so advanced and well informed as the people in the USA

In Australia and Switzerland In Australia and Switzerland also, there is an unmistaken trend towards centralisation

The following causes explain the trend of centralisation

1 **Complex Problems** The problems of the twentieth century are more serious than those of the nineteenth century, just as those of the nineteenth were more complex than those of the eighteenth

2 **Expansion of Social Services** The concept of the welfare state calls upon all democratic governments including those having

1 J A. Corry *Democratic Government and Politics* (1958) p 558

the federal pattern to render various kinds of social services These are steadily expanding in recent years, and it becomes necessary to increase the powers of the centre The expansion of social services is thus another factor in favour of centralisation With the increase in population, social services have to be multiplied

3 War The wars of the present century also favoured centralisation Robert Rienow points out "In an important sense the prosecution of war has been the greatest influence of all in centralising federal government"[1] The outbreak of a war or the threat of a war necessitates giving more powers to the centre in order to make adequate preparations on a large scale on a national basis Questions pertaining to defence and war preparations cannot be left to the discretion of units in a state The centre has to take the initiative, and mobilise resources to face the war situation Two World Wars did much harm to the federal principle "If governmental management of the life of the people in peace time had stayed at the level reached in World War I, there is little doubt that federalism would be absolute The federal governments ran the war and decided almost everything connected with it The state governments remained in a condition of suspended animation with no substantial sphere of independent initiative"[2]

4 National Emergency National emergencies like the one the USA had to face also favour the trend of centralisation The problems created by a national calamity or emergency can be best tackled by the centre For instance, when the terrible depression broke out in the USA about a decade after World War I ended, President F D Roosevelt introduced the *New Deal* to save the nation from disaster The hands of the centre were strengthened by special legislation to give effect to the *New Deal* Had President Roosevelt left the situation as it was, the depression would have continued to spell more and more disaster on the USA Seeing the realities, he changed his attitude towards the centre-states relations, and boldly introduced the *New Deal* "The New Deal brought a tremendous upsurge of federal government action in the United States The federal government undertook large new activities or greatly expanded its former activities in relation to such matters as transport, public utilities, banking and credit,

1 *Introduction to Government* (1960) p 205

2 J A. Corry *Democratic Government and Politics* (1958), p 586

stock and commodity exchanges, labour-capital relations, agricul cultural production, housing, social security and conservation "[1]

Since then, the relations between the federal government and the states are quite different from those prevailing earlier The times strengthened the centre, and made the states more and more dependent on it For instance, the states receive grants from the federal government as federal-grants-in-aid on certain conditions which weaken their position in the face of the centre It is idle to think in modern times, which have given rise to a bumper crop of social and economic problems, that a weak centre with the units endlessly speaking of their full autonomy can be able to do full justice to the people scattered all over the federation In the USA, people were not slow to realise that the centre *alone had the capacity to deal effectively with national problems* Robert Rienow says 'Unemployment, public works, security regulation—these are a major concern of central governments No constitutional doctrine of federalism is able to withstand the clamour for governmental responsibility in the matter of guaranteeing jobs, production and smooth exchange of goods "[2]

In India, the Chinese attack in 1962 and Pakistani attack in 1965, enabled the centre to make use of the Emergency Powers of the President So also, the need to plan on a large scale with the help of the Planning Commission (which some regard as Super Cabinet at the Centre) greatly enhanced the powers of the Centre

Future not Bleak The process of centralisation makes scholars think that the future of federalism is dark

However, *certain factors show that the future is not bleak* These are the following

1 Units not Subordinate The increase in the powers of the centre does not mean that units have become subservient to the centre Constitutionally speaking, their position has not changed to one of subordination to the centre Wheare points out, that if the functions of the centre have increa ed in federations, the functions of the units also have increased If the centre is allowed to undertake works of national importance, it is because the units know that they are of national importance and they will not be able to undertake them if left alone without the aid of the centre.

1 Ibid p 572

2 *Introduction to Government* (1960) p 206

2 Centralisation Strengthens Federation The process of centralisation has added to the strength of federations, and has done away with disadvantages coming in the way of national development No sensible person will look suspiciously at the process of centralisation, if it is meaningful and is calculated to strengthen the bonds of national unity and improve the general conditions of the people No federal state is prepared to sacrifice the interests of the nation in the name of regional independence

3 Centralisation Meaningful There is danger to federalism only if the units in a federation are deliberately degraded to suit the whims and fancies of interested politicians at the centre But, wherever there was centralisation, it was not without justification Wanton denigration of federated units has not taken place In the USA, Switzerland and Australia, centralisation manifested itself to meet ths requirements of changing times

4 Federalism Spreading Federalism is spreading in the world In recent years, countries which won their independence favoured federalism India and the United Arab Republic can be given as examples

World Federation The process of federal government in the USA, Switzerland, Australia, Canada and the USSR holds out great hope for federalism in future In these countries, perhaps a unitary system would have failed miserably

Federalism is also the best remedy for curing the ills of the world In case, at a future date states decide to have a world government they will have to choose a federal form and not a unitary one "Many writers have extolled the merits of the federal principle and have urged its further application in the formation of longer political units, even to the extent of a world federation"[1] C F Strong says that "if the world is moving towards the organisation of a universal state out of the international anarchy which we have hitherto known, it is pretty certain that it is on federal lines that this will be achieved"[2]

MAIN POINTS

1 Meaning of Federation Two sets of government written constitution and federal court Association of states common aims and large measure of original independence Division of powers by national constitution or Act of Parliament Constitutional status of units All authorities bound by the provisions of the constitution

1 R. G Gettell *Political Science* (1956) p 139
2. *Modern Political Constitutions* (1958) p 98

2 Difference between Unitary and Federal Systems 1 Unitary System—One integrated system of government Units creatures of centre Unity Good for small states Low cost 2 Federal System Two sets of government Units have constitutional status and vast regional autonomy Division of powers by written constitution Supremacy of constitution Good for big states

3 Confederation Temporary association of sovereign states for realising a specific aim No control over citizens of member states Each member tate sovereign Membership can be withdrawn

4 Essential Conditions for Federation Separate states can federate or a unitary state can be reorgani ed into a federation Conditions—1 Desire for union as against unity 2 Desire for local autonomy 3 Homogeneity (4) Good leadership 5 Genius and calibre of people 6 Love of democracy 7 Geographical contiguity 8 Absence of great inequality 9 Adequate economic resources

5 Examples of Federation 1 USA Original confederation converted into a federation Residuary powers with states A model federation 2 Switzerland Danger of secession War Swiss Confederation with a strong centre Residuary powers with cantons Referendum for constitutional amendments 3 Canada strong centre with residuary powers 4 Australia Threat of big powers Factors of homogeneity Residuary powers with states 5 USSR Residuary powers with constituent republics Right to secede Great difference between theory and practice 6 India Combination of unitary and federal features Hybrid constitution Quasi-federal Strong unitary bias Federation in normal times and unitary state during emergencies Wide powers of President One citizenship One Judicial system No right to secede

Possibility of a world state on the federal principle

6 Essential Features 1 A written constitution 2 A federal court 3 Rigidity of constitution 4 Second chamber desirable but not essential

7 Merits 1 For union of small states 2 Scope for autonomy 3 prevents central despotism 4 Unity with diversity 5 Scope for training 6 State not vulnerable

8 Defects Expensive 2 Complex structure 3 Controversies and disputes between Centre and units 4 Difficulty in foreign policy 5 Divided loyalty of people

9 Future of Federalism 1 Strong trend of centralisation everywhere 2 Why centralisation—complex problems expansion of social services war and national emergency 3 Future not bleak Centralisation meaningful and necessary Centralisation does not mean subordination of units to centre

Section XI
CONSTITUTIONALISM
Chapter 44 Constitutionalism and Written and Unwritten Constitutions
45 Flexible and Rigid Constitutions

CHAPTER 44 CONSTITUTIONALISM AND WRITTEN AND UNWRITTEN CONSTITUTIONS

In modern times, the world has been accustomed to speak of constitutionalism, since a strong reaction against arbitrary and unrestrained rule expressed itself in countries like Britain

A The Growth of Constitutionalism

Fundamental Principles Determining Form of Government The basic principles according to which government is conducted form the constitution R G Gettell says "The fundamental principles that determine the form of a state are called its constitution *These included the method by which the state is organized,* the distribution of its sovereign powers among the various organs of government, the scope and manner of exercise of governmental functions, and the relation of the government to the people over whom its authority is exercised"[1] Constitutionalism, as we understand it now was fully developed in the West in modern times

Limited Government with Restraints on Rulers and Ruled The aim of a constitution is to impose restraints on the rulers and the ruled 'As a concept, constitutionalism means essentially limited government, a system of restraints on both rulers and ruled It is the antithesis of government by the unrestrained will of rulers Regardless of the actual form of effectiveness of restraints, it assumes limitations on government as opposed to arbitrary

1 *Political Science* (1956) p 244

government "[1] The importance of constitutionalism can hardly be overemphasized J A Corry observes "Starting from the conviction that government action should be in accordance with law carefully laid down beforehand, it holds that the best way to accomplish this is to establish a fundamental law which defines the organs of government, prescribes how they shall function, and outlines the basic relationships between government and the private citizen "[2]

In Greece Constitutionalism can be traced to ancient Athens in Greece " Athens is said to have had eleven *constitutions* between 624 B C and 404 B C, Aristotle *is credited with having* collected and described a large number of *constitutions* and in his treatise on *Politics* he discussed 'constitutional government', inquired into the 'best constitution and himself defined a constitution "[3]

In his *Statesman*, Plato regards the constitutional government as the best By constitutional government Plato had in mind a government functioning according to law rather than by the whims and fancies of rulers

Aristotle speaks of constitution as " the arrangement of powers in a state, *especially of the supreme power* "

While studying the Greek ideas, one should not read too much in them, and give modern interpretations never meant by the Greek thinkers

In Rome The Romans, who distinguished themselves as practical-minded rulers and law-givers drew up a republican constitution, when the monarchs abused their power In the republican constitution of Rome, the principle of checks and balances was followed

Roman thinkers gave the theory that the people formed the ultimate source of legal authority "The Romans likewise distinguished between *constitutional law and ordinary law, between the* constituent power and the legislative power "[4] According to the Roman thinker Cicero, the state has its roots in the consent of the people, a theory which formed the basic principle of the Roman republican constitution of Rome Even in the days of the emperors after the fall of the republic, the theory was alive, though

1 J S Roucek and Others *Introduction to Political Science* (1954) p 981
2 *Democratic Government and Politics* (1955) p 37
3 J W Garner *Political Science and Government* (1955) p 460
4 Ibid p 461

in actual practice the emperor wielded excessive authority After some time, the emperors assumed authority, which was unlimited and irresponsible, and this was one of the causes leading to the destruction of the Roman empire

In Middle Ages In the middle ages, when feudalism and the power of the church were important factors, the spirit of constitutionalism was continued through the belief that the feudal nobles were answerable to God and to the law, which was mostly based on custom Thus people spoke in terms of certain principles for guidance in governmental matters Though the belief of the responsibility of kings and nobles to God and to the law prevailed, there was practically nothing to prevent them from abusing their power in actual practice Churchmen spoke in terms of a higher law, whose meaning and content were not clearly known Just as the people in ancient Greece and Rome spoke of natural law, the people in the middle ages laid emphasis on divine law Faith in God and much talk on higher law did not mean much in actually limiting the power of kings and nobles

The ideas of constitutionalism assumed an institutional form only in modern times

In Modern Times The end of the middle ages, which witnessed powerful movements like the Renaissance and the Protestant Reformation registered the decline of the power of the Church, which spoke of spiritual power and temporal power, the former being superior to the latter The Age of Faith ended and the Age of Reason began In the new age, however, conditions in many countries favoured the establishment of absolute monarchy

The Age of Absolute Monarchy was followed by the Age of Revolutions, in which the peoples of America and France rebelled against absolute authority

In Britain, the principle of the Divine Right of Kings was cast aside and the supremacy of Parliament was proclaimed

The triumph of the British Parliament over the Stuart kings, the victory of the American colonies over England and the overthrow of monarchy and establishment of republicanism in France were landmarks in modern history, which proved the clear rise of constitutionalism These movements and revolutions brought out the need of having governments, which were to function according to clearly accepted principles

The people of Britain can claim credit for having made a beginning of a written constitution "The distinction of attempting

the first written constitution goes to Englishmen In 1649 a politically active group in Cromwell's army known as the Levellers drew up a document called the *Agreement of People* It never became effective Four years later, England did have a written constitution, instituted by Cromwell known as the *Instrument of Government* but was abandoned before it became operative"[1]

In modern times, the rise of constitutionalism was intimately connected with the emergence of nationalism and democracy As C F Strong points out, "modern constitutionalism has developed from the two-fold basis of nationalism and representative democracy"[2]

B Definition and Meaning of Constitution

Various Meanings 'Constitution' is one more term which has been understood in different ways J W Garner says 'Like other terms in Political Science it has been variously defined by different writers according to the varying conception which they hold as to what a constitution should be"[3]

Principles of Form and Powers of Government, and Rights and Obligations of People The government in a state has to function according to certain principles or rules and, similarly, the people enjoy their rights and meet their obligations, also according to a set of rules This set of rules or principles is known as the constitution of a state Sir James McIntosh gives a good definition of constitution "By the constitution of a state, I mean the body of those written or unwritten fundamental laws, which regulate the most important rights of the higher magistrates and the most essential privileges of the subjects"[4] In other words, in a state the government and the people have to subject themselves to a definite body of rules or orders, and principles Without respecting a certain set of rules and regulations, which uphold the governmental system, people cannot expect order, on the contrary, there is bound to be anarchy in their absence The collection of principles or rules dealing with the organization and powers of the government and the rights and duties of the people is called constitution

It is necessary to know the difference between constitutional government and government according to constitution K C Wheare says "Constitutional government means something more than government according to the terms of a constitution It means

1 J S Roucek & Others *Introduction to Political Science* (1954) p 127
2 *Modern Political Constitutions* (1954) p 127
3 *Political Science and Government* (1955) p 456
4 Quoted in Ibid p 456

government according to rule as opposed to arbitrary government, it means government limited by the terms of a constitution, not government limited only by the desires and capacities of those who exercise power"[1]

Constitutions Everywhere Every state lays down these rules for the good of all through conventions and customs and also through the written word Even in England, a country, which claims to have an unwritten constitution, every principle is not unwritten, but many principles and regulations are put in black and white in several documents In the USA, France, India and other states, the principles of governance and the rights of the people are put in black and white All states have rules and principles that is, all states have constitutions

In every state, whatever may be the form of government there is the need to have a constitution Jellinek declared that a constitution is a necessity and that every state must and does in fact possess one It is indispensable, he said, even for states in which an arbitrary regime, in the ancient sense, prevails, or in which a system of despotism exists [2]

Two Meanings of Constitution K C Wheare is of the opinion that the word 'constitution' is understood in two senses

(1) "First of all, it is used to describe the whole system of government of a country the collection of rules, which establish and regulate or govern the government"

(2) 'It is used to describe not the whole collection of rules, legal and non-legal but rather a selection of them which has usually been embodied in one document or in a few closely related documents"[3]

"In Britain, the term 'constitution is understood in the first sense, whereas in the other states it is taken in the second sense "With us (i e the British) the *law* is not an emanation from authorities set up or provided for by a written and formal document It consists of the legislation of Parliament and the rules extracted from the decisions of judicial authorities The powers of these bodies and the relations between them are the product of history''[4]

1 *Modern Constitutions* (1958) p 202
2 J W Garner *Political Science and Government* (1911) p 418
3 *Modern Constitutions* (1918) pp 1–2
4 I Jennings *Cabinet Government* (1919) p 1

In states like the USA and India, by constitution is meant the written document of each state, which contains rules pertaining to governance

Triumph of Constitutionalism It is in modern times that constitutionalism triumphed, and today rulers cannot govern as they desire like Nero in ancient Rome or Louis XIV in modern France Even in monarchies which have survived, government has to be run according to the principles embodied in the constitution In Britain today, the queen cannot act arbitrarily, but has to remain satisfied as a titular head because the constitution says so In India the President cannot rule like the Sultans of Delhi in the middle ages, because he is bound by the provisions of the Constitution Similarly, people have to respect the Constitution, and obey all the laws supporting it Violation of the law and of the constitution will be visited by punishment according to the law At present, we are all habituated to say that a particular action of government is constitutional or unconstitutional People in ancient times were not in a position to speak in such terms, because constitutionalism had not grown, and moreover there were no institutions to act as restraints on the power of rulers

Basis of Government It is significant to note that a constitution provides the basis of the functioning of a government J A Corry says "The constitution defines and provides for the establishment of the chief organs of government It outlines the relation between these organs and the citizen between the state and the individual The constitution is the frame or chassis in which the working engine of government is set With a certain tolerance, the type and structure of the engine can be modified without changing the frame"[1]

C Features of a Good Constitution

An examination of the various constitutions shows that all of them have not been framed carefully, and they lack some of the important features of a good constitution

A constitution can be regarded as satisfactory, if it has the following features

1 **Clarity and Precision** A constitution should be charac-terised by clarity and precision It has to be drafted care[illegible] that its principles are laid down with great precision [illegible]

1 *Democratic Government and Politics* (1918), p 21

When words are not carefully chosen, and expressions are ambiguous or vague a fertile ground is prepared for future controversies and litigation

2 **Comprehensive** A constitution must be comprehensive enough so that government may know its powers and their limitations and the people may know their rights and obligations The drafting of the French constitution of 1875 without adequate care and foresight resulted in important omissions like the Bill of Rights the method of electing ministers and so on

3 **Not Too Detailed** While a constitution must be precise, clear and comprehensive, it should not be stuffed with unnecessary details How long a constitution should be, and what details it should furnish depend upon the state concerned, and the genius of the people

4 **Stability and Flexibility** A good constitution should be a harmonious combination of stability and flexibility A constitution should be well-planned and should give stability to the state, but at the same time, it should provide the maximum scope for changes to suit the times A constitution lacking reasonable flexibility will soon become outdated

E B Schulz mentions certain requirements of a satisfactory constitution

(1) suitability for a particular country
(2) contents confined to fundamentals
(3) adaptability to changing canditions
(4) a formal mode of amendment,
(5) definite provisions for final interpretation
(6) miscellaneous requirments

"It should be comprehensive in the sense of covering all basic problems of governmental organisation, powers and duties, and procedures, but at the same time it should deal with these matters as briefly as possible [1]

Role of Conventions In no state can every principle of Government be put in black and white, and the people have to develop constitutional conventions to meet their requirements

D Kinds of Constitutions

Constitutions can be classified into

(1) Cumulative (or Evolved) and Conventional (or Enacted),
(2) Written and Unwritten and
(3) Rigid and Flexible

1 *Essentials of Government* (1961) pp 160-61

1 Cumulative and Conventional

Cumulative Constitutions Result of Evolution A constitution, which is the product of slow and evolutionary changes in the course of a long time is called cumulative or evolved Such a constitution is not hammered into a definite shape by a constituent assembly or by a committee, it is built up gradually through accumulated experience A large number of customs, conventions, usages and practices goes into the structure of an evolved constitution Thus an evolved constitution is not the result of an Act of Parliament, but of growth

Conventional Constitution Enacted by Law Unlike an evolved constitution, a conventional or enacted constitution is deliberately made by a constituent assembly or is the product of the law made by parliament or king

The difference between an evolved constitution and an enacted constitution is more or less the same as between a written constitution and an unwritten constitution

2 Written and Unwritten

Most of Fundamental Rules in Single Document A written constitution is a single document in which all the principles of government and the rights of the governed are written down "A written constitution, unlike the British, is the result of deliberate framing and adoption of a specific document intended to embody most of the fundamental rules, principles and institutions, which characterise the political fabric of a state For this reason a written constitution is clearly distinguished from ordinary law"[1]

Usage, Interpretation and Amendment The drafters of a written constitution cannot anticipate the changes that are likely to take place in course of time or make detailed provisions for every eventuality To meet the needs of the changing times, a written constitution has to grow, by usage, interpretation and amendment

J W Garner says ' Written constitutions grow in three ways by usage, by judicial interpretation, and by formal amendment The part played by custom and usage is more potent in the case of old than of new constitutions'[2] The USA, [illegible] India and all other states except Britain have written con[illegible]

1 J S Roucek and Others *Introduction to Po[illegible]* (19[illegible]) p [illegible]

2 *Political Science and Government* (1955) p [illegible]

tions A written constitution is not accumulated or evolved, it is conventional or enacted The written constitution of the USA was drafted by a special convention of delegates who met on May 14, 1787 at Philadelphia and the Constitution of India was made by the Constituent Assembly of India (1946-49)

The people in a state, who desire to have a written constitution hold discussions and plan out everything pertaining to the constitution The powers of the executive, legislature and judiciary are defined in the constitution so also the rights of the people are clearly written down The constituent Assembly of India discussed in detail the aims and objectives of the Constitution, and various committees and sub-committees were appointed to frame the proposals, which were discussed at great length by the Constituent Assembly before the final draft was prepared

A written constitution can be regarded as satisfactory, if it clearly lays down the following

(1) organization of government, the constitution of the executive, legislature and the judiciary, and the powers of each of the organs

(2) the various types of rights of the people, fundamental, civil and political and

(3) The method of amending the constitution

E B Schulz says "The drafters of documentary constitutions commonly prescribe special and more or less formidable procedures for amendment or revision in order to bar changes through the ordinary law-making process"[1]

Fundamental Rules not in a Single Document An unwritten constitution is one in which principles of government are not found in a single document on the other hand they can be discovered in the customs, conventions and usages, and in the numerous Acts passed by the legislature England is the only country having an unwritten constitution K C Wheare says "Since Parliament be comes the sovereign law making body, no constitution could be drawn up to limit the powers of Parliament So it was that, whereas in certain countries of the world in the eighteenth and nineteenth centuries, people were at work framing constitutions which would limit the powers of legislatures in Britain parliament was supreme, and it was controlled by political means and not by the law of a constitution"[2]

1 *Essentials of Government* (1961) p 156
2 K C Wheare *Modern Constitutions* (1958) p 15

If a question is asked about the source of the British Constitution, it it difficult to give a straight answer "The British Constitution consists of five basic ingredients great documents and statutes which have provided a solution to successive constitutional crises, certain other parliamentary statutes which have brought about important changes, many principles of the common law, particularly those concerning civil liberties, customs or conventions and judicial decisions Although the British Constitution is called an unwritten one, all but one of these five ingredients are in fact written down in black and white But they are not gathered together in any one document which can be called a Constitution "[1]

In the course of several centuries, Englishmen developed useful conventions and customs, and did not find it necessary to put them in the form of one document "That Englishmen have not embodied these customs in written law is due largely to the fact that they are Englishmen, in the habit of doing things this way Americans not being so tradition-minded usually feel more secure about such matters if they are enacted into formal law"[2] Respect for law and custom is found in the blood of Englishmen, and they are capable of conducting and restraining themselves according to the basic constitutional principles, and there is no need of putting all constitutional rules and principles in one document Not only the British people allow themselves to be bound by the existing constitutional customs but they also establish new conventions, if they are good and useful The British have a special genius in constitutional matters

Difference not Real It is said that the difference between a written constitution and an unwritten one is not real, as no constitution is completely unwritten C F Strong is of the opinion that the distinction is false, as no constitution is entirely written or entirely unwritten[3] J W Garner, who looks at this classification a little differently lays emphasis on the degree of what is written or unwritten He says 'The classification of constitutions as written and unwritten has been criticised on the ground that the distinction between them is really one of degree rather than of kind, and hence does not mark a contrast between widely differentiated types"[4]

1 J S Roucek and Others *Introduction to Political Science* (1954) p 125
2 Ibid p 111
3 *Modern Political Constitutions* (1958) p 64
4 *Political Science and Government* (1955) p 467

constitutions, whereas Britain has a flexible condition India's constitution is a mixture of rigidity and flexibility (For details on Flexible and Rigid Constitutions see Chapter 45)

E Modern Trends

Preference for Written Constitution People in modern times, except those in Britain clearly showed their preference for written constitutions Not only constitutions are written, but they are long and detailed While the Constitution of the USA, is short other modern constitutions are very long The Constitution of the USA has a one-sentence preamble and seven articles All these go into fourteen printed pages only Besides, twenty-two amendments are accommodated in about eight pages

But the recent constitutions are long The Brazilian Constitution adopted in 1946 has 218 articles getting into 50 pages nearly Similarly the Cuban Constitution has 286 articles printed in about 70 pages The Constitution of India is the longest constitution in the world when it was brought into force on January 26, 1950 it had 395 Articles and 8 Schedules

MAIN POINTS

1 **Meaning and Growth of Constitutionalism** A set of basic rules and principles determining form and powers of government and rights and duties of the individual is called constitution Limited government with restraints Origin in Greece Development in Rome Triumph in modern times Rose with nationalism and democracy Great contribution of Britain in constitution making

2 **Features of Good Constitution** (1) Clarity and precision (2) Comprehensive (3) Not too detailed (4) Stability and flexibility (5) Scope for growth

3 **Types of Constitutions** (1) Cumulative and Conventional Cumulative constitution result of evolution Conventional constitution enacted by law (2) Written and unwritten In a written constitution most of the fundamental rules are in a single document In an unwritten constitution they are scattered Difference not real (3) Rigid and Flexible A rigid constitution cannot be easily amended A flexible can be

In modern times states prefer a written constitution

Even the British constitution, which is supposed to be unwritten has written parts in it For instance, legal recognition has been given to the Cabinet in England by the Ministers of the Crown Act, so also there are various statutes to regulate the powers of the executive departments, the duration of Parliament, the relations between the House of Lords and the House of Commons, and the powers of the Judiciary The Magna Carta, 1215, the Petition of Rights, 1628, the Bill of Rights, 1689, the Reform Act 1832, and the Parliament Act, 1911, are some of the examples to show the written aspects of the unwritten constitution of England

Similarly, in the USA, which gave the world the model of a written constitution, there are procedures and practices about which no document states anything Much growth in countries with written constitutions is extra-constitutional The growth of the party system and the formation of a cabinet to advise the President can be given as instances to show the unwritten aspects of the written constitution of the USA C F Strong says " The constitution of the United States is the most completely written of all constitutions yet certain unwritten conventions or customs have grown up in the very teeth of the will of the fathers of the constitution, without any verbal alteration in this connection, in the constitution itself "[1] M Stewart, who does not attach much significance to the difference between a written constitution and an unwritten one points out "The formal difference between 'written' and 'unwritten' is therefore of more interest to the historian than to the political scientist The significant questions about any constitution are 'How easily can it be changed' and 'How strictly is it observed' '[2]

3 Rigid and Flexible

Depends on Method of Amendment A rigid constitution is one which requires a special method for its amendment The makers of a rigid constitution lay down a procedure with certain meaningful hurdles in the way of amendment For example, two-thirds majority in the legislature may be prescribed as one of the essential conditions of amendment

On the other hand a flexible constitution is one which can be amended without making use of any special procedure The USA, Switzerland Australia and some other states have rigid

1 *Modern Political Constitutions* (1958) p 65
2 *Modern Forms of Government* (1959) p 201

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CHAPTER 45

FLEXIBLE AND RIGID CONSTITUTIONS

In the last chapter we studied the distinction between a written constitution and an unwritten constitution Now, we shall study the difference between a flexible constitution and a rigid constitution

Bryce's Scheme The classification of constitutions into Flexible and Rigid has been made according to the scheme of James Bryce in his *Studies in History and Jurisprudence* (Bryce coined the words Rigid and Flexible, and since he spoke in 1884 on the classification, the terms came into usage in political science) A flexible constitution can be amended by the legislature in the same way in which an ordinary law can be, whereas a rigid constitution requires a special process of amendment England and New Zealand have flexible constitutions The USA and Switzerland have rigid constitutions K C Wheare who speaks of the significance of such a distinction points out "This form of classification has some value It is based upon a real and valid distinction We can say that since the legal obstacles to amendment of the Constitution in the United States Australia, Denmark and Switzerland are so much greater than they are, for example, in Norway France or the USSR then the constitutions of the first four countries are more rigid than those of the latter three "[1]

Degree of Adaptability and Ease of Amendment Whether a constitution is flexible or rigid is known from the method of amendment E B Schulz says "Constitutions are classifiable as rigid or flexible from the standpoint of the degree of their adaptability to changing conditions and also in consideration of the relative ease or difficulty of modifying or altering their provisions "[2] The distinction between flexible and rigid constitutions is sometimes

1 *Modern Constitutions* (1958) p 3
2 *Essentials of Government* (1961) p 156

regarded as the same as that between unwritten (non-documentary) and written (documentary) constitutions But all written constitutions are not rigid For instance, New Zealand has a constitution, which is not rigid Among the self-governing Dominions under the British Crown, only New Zealand has a flexible constitution Article 68 of the Constitution of New Zealand (1952) says that the General Assembly (that is the legislature) can by any Act or Acts "alter from time to time any provisions of this Act " The Constitution of India is a long and written one with many details, but it can not be regarded as rigid As stated earlier, it strikes a balance between flexibility and rigidity

I Flexible Constitution

A Definition and Meaning of Flexible Constitution

Easy to Amend A flexible constitution can be easily amended, and it can adapt itself to the changing times A flexible constitution is one in which constitutional law and ordinary law are enacted in the same manner, and both are on the same level Thus, the relationship between constitutional law and ordinary law indicates whether a constitution is flexible or rigid W F Willoughby explains the meaning of flexibility " Flexibility is not synonymous with susceptibility to change Indeed, it is almost the opposite A flexible object is one which can be bent without breaking, one that can be adjusted to new conditions without undergoing any structural change In this sense, stability and flexibility are not incompatible qualities "[1]

Features Let us refer to the features of a flexible constitution

(1) In a flexible constitution, constitutional law and ordinary law are derived from the same source

(2) There is no distinction between the constitution-making authority and the law-making authority

(3) Constitutional law is amended or repealed in the same way in which an ordinary law is Thus the constitution can be amended easily

(4) Courts have no power to declare any law passed by the legislature as *ultra vires*

(5) A flexible constitution may be written or unwritten

It seems, however, that the age of flexible and unwritten constitutions is over The rise of the rigid and written constitutions

1 *The Government of Modern States* (1936) p 131

took place in modern times While the difference betwe written and unwritten constitutions is regarded as unreal, the diff rence between flexible and rigid constitutions is considered rea and significant Most of the constitutions now are rigid, though the degree of rigidity is not the same in all states

British Example England is the only example of a state, which still continues to have a flexible and unwritten constitution C F Strong says "The British Constitution is very old, but its age is sometimes exaggerated Indeed to emphasise the venera bility of the British Constitution, is perhaps to put the emphasis in the wrong place since the peculiar strength of the Constitution lies not so much in its great age as in its flexibility The story of the growth of the British Constitution is the story of a conti nual series of adaptations to changing needs "[1] In England, Parliament is sovereign, whereas in the USA, the constitution is sovereign Here Dicey makes a significant observation 'Parlia mentary sovereignty is complete both on its positive and on its negative side Parliament can legally legislate on any topic what ever which in the judgement of Parliament, is a fit subject fo legislation There is no power, which under the English constitu tion can come into rivalry with the legislative sovereignty of Parliament '[2]

People in ancient times knew only flexible constitutions Till 1928, Italy had a flexible constitution, though in a written form The constitution of Austria-Hungary till the outbreak of World War I (1914–18) was flexible and unwritten Though the first constitution of the Irish Free State (1922–37) was in a written form and provided for two methods of amendment in actual practice it was flexible

B Merits of a Flexible Constitution

A flexible constitution has certain advantages

1 Elasticity A flexible constitution is elastic Elasticity is of great value, when people desire to amend the constitution England can be given as the best example of a state which has the maximum advantages of elasticity and adaptability

2 To Change with Times A flexible constitution can easily adapt itself to the changing times As times change, the needs of the people also change, and to meet these a flexible constitution

1 *Modern Political Constitutions* (1958) p 136
2 *An Introduction to the Study of the Law of the Constitution* (1962) p 70

is far better than a rigid one A rigid constitution is not adaptable to the changing times, and it may break by becoming outdated, whereas a flexible constitution can bend or adjust itself in the light of the new needs and challenges

3 **Prevents Revolution** In a state in which the constitution is rigid and people are dissatisfied, there is a great possibility of the outbreak of a revolution, but on the other hand, in a state with a flexible constitution, people's requirements can be met by amending the constitution, and hence the possibility of a revolution is ruled out

C Defects of a Flexible Constitution

A flexible constitution has certain drawbacks

1 **Lacks Stability** A flexible constitution may not last long Frequent changes, which can be easily made make the attainment of a fair degree of stability difficult In the hands of scheming and power-hungry politicians, a flexible constitution may become a toy

2 **Victim of Passions** A flexible constitution can be changed by people, who are easily given to passions Changes may be made not because reason and need dictate them, but because popular excitement demands them Good institutions may be easily swept away by the activities of demagogues, who may play upon the feelings and emotions of the people to serve their own selfish ends

3 **Harmful to Rights** A flexible constitution may be misused by government, and the rights of the people may be eroded While the genius of the people in England has made a success of a flexible constitution, normally such a constitution may not be suitable to the needs of a democracy England may be taken as an exception rather than the rule, for qualities found in the British people may not be easily seen in other peoples The drafting of the rigid constitutions in modern times shows that rigid constitutions serve the needs of countries better than flexible constitutions In a flexible constitution, there is greater scope for the government servant to exercise very wide discretionary powers In a written constitution, limitations on power are clearly laid down A flexible constitution for a country like India is quite unsuitable Even in advanced countries, there is a strong feeling that people's rights may not be safe, unless they have a written and rigid constitution In India, the numerous amendments to the consti-

tution make people feel that the want of a greater degree of rigidity has made the constitution a plaything in the hands of the party in power

The party in power at the centre in India favours the passi of Nath Pai's bill which aims at enabling Parliament to amend an provision of the constitution

II Rigid Constitution

A Definition and Meaning of Rigid Constitution

Amendment Difficult A rigid constitution is one which cannot be easily amended like a flexible constitution We shall briefly refer to the features of a rigid constitution

(1) Constitutional law is superior to ordinary law

(2) Constitutional law is made by a special body, and not by the legislature

(3) There is a special procedure of amending the constitution

(4) The constitution outlines the powers of the various organs of government the fundamental civil and political rights, and lays down a special method to amend the constitution

(5) In a federal state with a written and rigid constitution, the federal court interprets the constitution While in a state with a flexible constitution like England, courts cannot declare a law unconstitutional, courts are empowered by a rigid constitution to settle disputes and declare law *ultra vires*, if it violates the constitution It now is generally recognised that the qualities of flexibility and rigidity are not determined merely by the process whereby a constitution may be amended or revised A variety of other factors have a bearing on this question "[1]

A rigid constitution may be drafted by a constituent assembly, or by a foreign government and then handed over to the country concerned While the American and Indian Constitutions were drafted by constituent assemblies, the Constitution of Canada was the result of the British North America Act of 1867, which was passed by the British Parliament Similarly, the Government of India Act of 1935, which envisaged the formation of an All India Federation (which could not be established owing to various reasons) was passed by the British Parliament

Constituent Assembly The concept of the constituent assembly for drafting a constitution was given by Britain During the civil

E B Schul. *Essentials of Government* (1961) p 156

war, which broke out between Charles I and the Parliament, the Levellers, who supported Parliament made proposals (1648–49) for summoning a representative body to establish the "foundations of just government"

In 1789, the French revolutionaries discussed their constitution in their Constituent Assembly

The Convention of Philadelphia (1767) in America and the Constituent Assembly (1946–49) in India are good examples of special bodies framing constitution

The discussions and deliberations *in the constituent assembly* and the work of the various committees and sub-committees take a concrete shape in the form of a written constitution which (1) broadly outlines the organization of government, (2) puts in black and white the rights of the people, and (3) lays down the procedure of amending the constitution

England alone provides the example of a state in which people have been confident to have their rights and liberties established through conventions, customs and usages In other states, people desire to have clarity as regards the powers and limitations of government and their rights on which government should not encroach

Constitution-makers carefully draft a constitution and ensure that there are no gaps and omissions But however careful the drafters of a constitution may be, the success of a written constitution depends upon the genius of the people While the people in the thirteen colonies under Britain succeeded in winning their independence and working out their constitution successfully, the French revolutionaries miserably failed, that was because the French lacked the constitutional and administrative genius, which the American revolutionaries had

B Process of Amending Rigid Constitutions

Four Methods There is no uniform rule as regards the amendment of a rigid constitution, each country with a rigid constitution follows its own way "Broadly speaking, there are four methods of constitutional amendment in use among states with rigid constitutions

(1) firstly, that by the legislature under special restrictions

(2) secondly that by the people through a referendum

(3) thirdly, that method peculiar to federal states where all, or a proportion of, the federating units must agree to the change, and

(4) further, that by a special convention for the purpose.[1]

Revision and Amendment W F Willoughby draws a distinction between the revision of constitutions and their amendment "By revision is meant the operation of reconsidering and reframing the constitution as a whole By amendment is meant the operation of effecting a change only in some one or more specific feature of a constitution."[2]

Formal and Informal Methods of Amendment The methods of amending constitutions can be divided into two categories Formal and Informal

1 Formal Method of Amendment in the USA, France, Canada, Switzerland, Australia and India

We shall briefly study how the constitution is formally amended in the USA and other countries

USA In the USA there are two ways of amendment

(1) Proposals for amendment may come from two-thirds majority of the Congress and ratified by legislatures or conventions in three-fourths of the states

(2) Initiative for amendment may also come from the states If legislatures of two-thirds of the states apply for amendment, the Congress shall summon a convention to make proposals for amendments, and these become valid when approved by the legislatures or conventions in three-fourths of the states

According to the amendment rules it is difficult to amend the constitution and bring about the changes needed Ratification by the states may take a long time, and their voice may be more effective than that of the majority of the people 'The fact that only twenty-two amendments have actually been adopted while some four thousand have been proposed suggests the difficulty of this amending process."[3]

France In France, according to the constitution of the Fourth Republic (1946), (which ended in 1958 to make way for the Fifth Republic), the following amending procedure was laid down

1 See C F Strong *Modern Political Constitutions* (1958) p 133
2. *The Government of Modern States* (1936) p 135
3 J S Roucek and Others *Introduction to Political Science* (1954) p 135

(1) A resolution calling for amendment must be passed by an absolute majority in the National Assembly,

(2) After referring the resolution to the Council of the Republic for advisory purposes, the resolution must be passed by the National Assembly again a second time irrespective of the fact whether the Council of the Republic approves the move or not After the passing of the resolution, a Bill embodying the amendment is drawn up, and then it takes the route of ordinary law

(3) The amending Bill requires two-thirds vote in the National Assembly on the second reading and a three-fifths majority in both the houses on final passage for adoption, after which it goes to the President for his signature

The power to amend is subjet to the following limitations

(a) "No constitutional amendment in respect of the existence of the Council of the Republic may be effected without the agreement of the said Council or employment of the referendum procedure"

(b) No amendment can take place, if the state is invaded by foreign armies

(c) "The republican form of government may not be the subject of proposed amendment"

3 **Canada** As regards Canada, the British North America Act, 1867 did not vest power in the Canadian Parliament or in the Provincial legislatures to make constitutional changes, and all constitutional amendments had to emanate from the British Parliament Till 1949 the right to amend the constitution was not given to Canada

From the beginning of 1950 the Canadian Parliament secured the power to amend the constitution, and thus the British Parliament forfeited this power C F Strong says "The material point to observe is that if once the Provinces of Canada agreed to some change in their relations to the Dominion Authority, no further machinery would have to be used to make such a change in law than is employed for ordinary legislation Thus the Constitution of the Dominion of Canada is the least rigid in the British Commonwealth"[1]

4 **Switzerland** In Switzerland, the amendment of the Constitution takes place in the following manner

1 *Modern Political Constitutions* (1958) p 154

(1) Both the Houses of the federal legislature may pass a resolution to revise the constitution totally or partially, and may make a draft of the proposed new constitution or amendment, which must be submitted to a referendum of the people and the Cantons The draft is approved, when the majority of the citizens voting at a referendum and a majority of the Cantons are in favour of it

(2) In case, only one House of the legislature agrees to the proposal to revise or amend the constitution, it must be referred to the citizens for their approval by votes If the people vote in favour of the proposal, fresh elections to the Federal Assembly are held, and then the newly formed house goes ahead with the work of amendment When the Federal Assembly approves of the amendment, it is subjected to the referendum of the people and the Cantons The proposal of amendment succeeds, when they vote in favour of it

(3) 50,000 citizens may take the initiative to make a proposal to revise the constitution fully or partially If these citizens propose to make a complete revision of the constitution, the procedure followed is as given in (2) above In case the proposal is for partial revision, the procedure depends upon the fact whether the proposal is formulated or unformulated If it is unformulated the Federal Assembly must give its approval and then frame the amendment properly, after which it is referred to the people A proposal for amendment if formulated, has to be approved by the Federal Assembly, and after securing its approval must be submitted to the referendum of the people C F Strong says "Thus the constitution of the Swiss Confederation admits of both the legislative and popular methods of amendment, but makes it in every case the final sanction of the people an indispensable condition for the adoption of a proposed amendment and its incorporation into the constitution [1]

5 Australia In Australia the constitution can be amended by a method which is more democratic than the one followed in the USA or Canada

(1) The proposal for amendment must be first approved by an absolute majority of each chamber of the Commonwealth Parliament Not earlier than two months and not later than six months after its passage through both the chambers, it is referred to the

1 Ibid p 157

vote of the people, who are qualified to vote for the House of Representatives

(2) If there is a conflict between the two Chambers regarding amendment (when what is proposed by one House is rejected or amended by the other against the wishes of the earlier chamber) "the Governor-general may submit the (proposed) law as last proposed by the first mentioned House and either with or without amendments subsequently agreed to by both Houses, to the electors in each state qualified to vote for the election to the House of the Representatives"

India According to the Constitution of India, amendments can take place along the following lines

1 Those Requiring Simple Majority Amendments pertaining to the creation of new States or the redrawing of boundaries or the abolition of the Upper Chambers in the States and the government of Scheduled Areas or Scheduled Tribes can be made by a Bill in Parliament which has to pass through both the Chambers by a simple majority

2 Those Requiring Two-Thirds Majority of Each House and Ratification by State Legislatures In the following matters, an amending Bill is to be passed by each house of Parliament by a majority of the total membership of that house, by two-thirds majority of members present and voting in each House, and ratification by the legislatures of not less than half of the states

(a) method of electing the President,

(b) the extent of the executive power of the Centre and the States,

(c) matters regarding the Union Judiciary and the Courts in the States,

(d) establishment of High Courts mentioned in Part C of the First Schedule of the Constitution,

(e) division of legislative power between the Centre and the States,

(f) representation of States in Parliament and

(g) method of amending the Constitution

3 Those Requiring Two-Thirds Majority in Each House The other provisions of the Constitution can be amended by a majority of the total membership of each house and by two-thirds majority of members present and voting in each House of Parliament

Features It is necessary to remember the following features of the method of amendment in India

1 **No Special Procedure** The procedure of amendment is the same as in the case of the ordinary legislative business

2 **Initiative with Parliament** The power of introducing an amendment lies exclusively in the hands of the Parliament, and not in the hands of the State legislatures Only for the creation or abolition of a Legislative Council, a State Legislative Assembly can make a proposal of amendment

2 Informed Methods of Amending Constitutions

Rigid constitutions gradually undergo changes by informal methods of amendment, that is, those other than formal ones The informal methods are the following

(1) Executive Interpretation The interpretation given by the executive has served the purpo e of amending the constitution For instance, in the USA, Abraham Lincoln insisted that the Southern states had never been out of the American federation Similarly American Presidents claimed the right to send the armed forces of the USA to any part of the world for protecting the life and property of Americans

(2) Legislative Action and Elaboration In the USA the Presidential succession Act of 1886 and the Act of July 1947 provided for Presidential succession "In the event that both the President and the Vice-President die during the four-year term, the duties of the President fall upon a successor, who has been previously designated by an ordinary Act of Congress At present it is the speaker of the House who is *next in line* if the President dies He is followed by the President *pro tempore* of the Senate and members of the cabinet in order of rank "[1]

(3) Judicial Interpretation The constitution of a state stands amended in the light of judicial interpretation

(4) Custom and Usage In course of time, the constitution of a state undergoes changes by governmental custom and practice (For details, please see *Politics and Government in the United States* by Redford and Others and *Modern Constitutions* by K C Wheare)

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1 Griffith E S *The Ameri an System of Government* (1966) p 71

C Evaluation of Rigid Constitutions

Let us briefly refer to the merits and defects of rigid constitutions

Merits The following are the merits of a rigid constitution

1 *Stability* It is stable and unlike in a flexible constitution, there is permanence

2 *Safeguards Rights* A rigid constitution is written, and in it the rights of the citizens are clearly enumerated The individual can make use of remedial measures, when the government encroaches on his rights

3 *Rights of Minorities* A rigid constitution guarantees the rights of minorities

4 *Check on Legislative Encroachment* The legislature, which owes its existence to the constitution in the rigid and written form, *cannot pass a law which goes against the provisions of the constitution*

Defects The following are the defects of a rigid constitution

1 *Amendment Difficult* A rigid constitution does not lend itself to easy amendment, and hence it cannot adapt itself to the needs of the changing times However, careful the makers of a rigid constitution may be, they will not be able to anticipate all the problems of the future K C Wheare observes "Constitutions, when they are framed and adopted, tend to reflect the dominant beliefs and interests, or some compromise between conflicting beliefs and interests, which are characteristic of the society at that time A constitution is indeed the resultant of a parallelogram of forces political—economic and social—which operate at the time of its adoption "[1] When conditions change, the balance is disturbed, and it is necessary to amend the constitution A constitution lagging behind the times is harmful to national interest

2 *May Break* A rigid constitution cannot easily bend If it refuses to bend to meet the needs of changing times, it may break with the outbreak of a revolution

3 *Conservatism of Judges* Judges, who are called upon to interpret the constitution may show a conservative spirit Without moving with the spirit of the times, they may interpret the constitution strictly according to the letter The judiciary may prove itself as a super-legislature, and it may not allow the legislature

1 *Modern Constitutions* (1858) p 98

to pass progressive laws In the USA, the Supreme Court declared as *ultra vires* in 1857 the law passed against slavery The Supreme Court "vetoes of federal and State New Deal economic legislation led to the famous court-packing fight of 1937"

MAIN POINTS

Distinction between Flexible and Rigid constitutions made by Bryce

1 **Flexible Constitution** Constitutional law and ordinary law on the same level Both from same source Courts have no power to declare laws ultra vires. Merits—(1) Elasticity (2) To adapt itself to the needs of a dynamic society (3) Prevents revolutions

Defects—(1) Lacks stability (2) Victim of passions (3) Harmful to rights

2 **Rigid Constitution** Constitutional law superior to ordinary law Special and difficult procedure to amend constitution Constituent assembly makes constitution. The USA France Canada and Australia have rigid constitution

Merits—(1) Stability (2) Safeguards rights (3) Guarantees rights of minorities (4) Check on legislative encroachment

Defects—(1) Amendment difficult (2) May break (3) Conservatism of judges

Section XII
THE PEOPLE

CHAPTER 46

THE ELECTORATE

The study of the electorate and the representative is of great importance in dealing with democracy, in fact, their study is the study of democracy itself

A Democracy and Representation

Government by People's Representatives We have noted earlier that modern democracy in indirect or representative and that direct democracy, which the ancient Greeks had is not feasible in modern times Democracy, a form of government based on consent, persuasion and criticism is possible by handing over governmental machinery in the hands of persons who are directly elected by the people Democratic government is run not by any particular individual or a class but by elected representatives of the people In a democracy, it is supposed that power is vested in the people, and the people should be allowed to choose their leaders or representatives

Election Representatives are elected by those who have franchise, that is, the right to vote The body of people electing the representatives is known as the electorate The electorate not only elects representatives, but also passes a verdict on the government People will not return to power a dishonest and inefficient government, in which they have lost faith In an election, strength is measured through the ballot box A candidate, who secures more

votes than his rivals is declared elected "The system most familiar to citizens of the United Kingdom is the election of one person at a time by relative majority the candidate having the most votes being declard elected This has been aptly named the 'first-past the-post system'"[1]

Importance of Electorate The electorate is the basis of a democratic form of government W F Willoughby observes "In a popular government of the representative type, the electoral branch may be viewed as the foundation upon which the whole structure of government is erected It is thus logical that a consideration of the several branches of government should begin with it"[2] The electorate elects representatives, who run the government In countries having the system of referendum and initiative, plebiscite and recall the importance of the electorate is very great S Leacock says "The electorate or voters, are sometimes spoken of as the political people to distinguish them from those who have no direct legal share in the conduct of public affairs The French Constitution of 1791 spoke of these two classes as 'active and passive citizens'"[3] In a democracy, an electorate is taken for granted for there can be no democracy without an electorate

Origin and Growth of Representation In periods of history in which democracy was not accepted as a form of government or in a state in which power was in the hands of a king or aristocrats, there could be no talk of the electorate There are no voters in an absolute monarchy or aristocracy, where all institutions are managed according to the will of one or of a few

It is difficult to say when exactly the system of representation originated Probably it began in the middle ages In the church, certain orders made use of a method of representation J A Corry points out "Representation is a medieval invention apparently originating in the practice of the early Christian Church in calling together representative councils to deal with matters affecting the government of Christendom"[4] Similarly, kings also started calling representatives, not because they wanted to give democracy, but because financial needs compelled them to do so When people refused to pay taxes, as and when the king demanded the latter were forced to consult the representatives of the people. Though

1 Lakeman and Lambert *Voting in Democracies* p 25
2 *The Government of Modern States* (1936) p 209
3 *Elements of Political Science* (1938) p 209
4 *Democratic Government and Politics* (1958) p 267

the representatives consulted by the king had very little power and influence, the very fact that consultation took place was of tremendous significance

The beginning of consultation marked the origin of the legislature and the owing of the eed of representative government in various European countries Among the assemblies in Europe, the Parlia ment in England, the Estates-General in France, the Diet in Germany and the Cortes in Spain assumed importance In deve loping democracy, England was the foremost

Reaction against Absolute Monarchy *Assemblies of people's* representatives, which were summoned for consultation received a a set-back in the early modern times with the growth of absolute monarchs The age of Absolute Monarchy was bad for assemblies In France the Bourbon kings did not summon the Estates-General for 175 years

Louis XIV of France said 'I am the state ' In Britain the Stuarts started governing arbitrarily taking advantage of the theory of Divine Right of kings, but Parliament was a great obstacle to them As both the sides were not prepared to give way, there was civil war (1641-49) in England Charles I the Stuart autocrat was executed (1649) Another rude set-back that monarchy got in *England was in the time of James II,* who had to leave the country, and William and Mary were invited to rule over England according to the conditions imposed by Parliament This was called the Glorious Revolution (1688-89) The British Parliament moved from strength to strength, and ultimately England came to have a full-fledged parliamentary democracy

While the British Parliament could register triumph after triumph over the king, the French Estates-General could not How ever the developments which took place in Europe in the Age of Revolutions (1750-1850) shook the citadels of autocracy and monarchs were compelled to give concessions to the people This enabled the various European countries to have representative assemblies

Representative Institutions Evreywhere All over the world representative institutions have come to stay It is curious to note that even in dictatorships lip sympathy is paid to representative assemblies This is necessary to please the people and ca their imagination The USSR witnessed the rise of the dic *of Lenin, Stalin, Malenkov, Bulganin, Krushchev and* K

but even in this state the constitution provides for the functioning of representative bodies In Nazi Germany under Hitler and Fascist Italy under Mussolini legislatures did function, though they were subservient to the dictator

Elections Everywhere Elections are held in all the continents The principle of democracy is spreading fast in countries which won their independence in recent years Elections have been held in several countries of Asia and Africa Thinkers in Europe, who were not prepared to believe that the Africans and Asians were fit enough for franchise must have been disappointed to learn that their judgement has proved to be wrong India held four General Elections (1952, 1957, 1962 and 1967) on the basis of adult franchise Ceylon also held elections In Europe, all countries including dictatorships have been following the principle of elections "The successful experiments in India, Ceylon, Ghana, and Nigeria were followed by elections in the Sudan, Malaya, Sierra Leone, Kenya, Zanzibar Uganda, Tanganyika and elsewhere with methods suited as far as possible to serve local needs and conditions the French overseas territories have rapidly developed their own electoral systems "[1]

Unfortunately, Africa and Asia turned out to be a continent of *coups*, and democratic institutions suffered

Who Form the Electorate All persons in a state do not have franchise i e the right to vote Certain essential qualifications are laid down for franchise States in which there is universal suffrage, persons below a certain age (it may be 18 21 or 25) are not allowed to vote Similarly, aliens, people who have served a jail sentence for criminal offence and people of unsound mind do not have franchise Even today there are states in which women are not allowed to vote In the most highly advanced democracies, franchise is given to all, that is, to all adults

India introduced the principle of adult franchise in her constitution at one stroke According to the constitution of India (1950), all adults have franchise

B Theories of Suffrage

We shall briefly deal with the various theories of suffrage (1) Theory of Natural Rights (2) Tribal Theory, (3) Feudal Theory, (4) Ethical Theory, and (5) Legal Theory

1 T E. Smith *Elections in Developing Countries* (1960) p 1

1 *Theory of Natural Rights* This theory is based on the Social Contract Theory, which says that the state is a product of contract According to the theory of Natural Rights, every citizen gets franchise as his inherent right The theory bases the right to vote on an abstract right emanating from laws of nature

2 *Tribal Theory* According to the tribal theory, which was developed by the Greek, Roman and German peoples, the right to vote (which every citizen enjoyed) was part and parcel of the life of the community It must be remembered here that in the Greek city states only a small minority enjoyed the rights of citizenship, which included the right to vote The theory bases the modern right of voting on the ancient tribal right among the Greeks and Romans

3 *Feudal Theory* The feudal theory, which was developed in the middle ages, linked the right to vote with social status derived from property ownership Those who prescribe a property qualification for the right of voting depend on this theory

4 *Ethical Theory* The ethical theory says that the right to vote enables the individual to develop his personality, as he gets the right to express himself and associate himself with the work of government

5 *Legal Theory* The legal theory is based on the belief that franchise is a political right derived from the law of the state Voting is neither a natural right nor an ethical right, but it is a political right created by law

C Universal Suffrage

Universal suffrage in actual practice means adult suffrage, that is, all adults in the state have the right to vote In India, there is universal suffrage All men and women, whether educated or uneducated, rich or poor have the right to vote at the general elections provided they have attained the age of 21 Only aliens, criminals, bankrupts and insane people are excluded from the electorate, as it is believed they are not fit to exercise franchise

In Switzerland women have no franchise In the country-wide referendum in Switzerland held in 1959, men voted against the enfranchisement of women

"The British Commonwealth countries in Asia, which have gained independence since the Second World War are, in general firmly wedded to the concept of universal adult suffrage "[1]

1 T E Smith *Elections in Developing Countries* (1960) p 81

In the countries of Africa viz Rhodesia, Nyasaland, Kenya, Sierra Leone, the Gambia, Uganda and Tanganyika there is no adult franchise and suffrage is based on income, property, literacy and so on Zanzibar, North Nigeria, Iraq, Transjordan and Sudan have no women voters

In Syria all males and females who are eighteen have vote according to the Electoral Law of 1949 Syrian women require a certificate of primary education for franchise

Opinion is sharply divided on the question of universal suffrage

Advantages The following are the advantages of universal franchise

1 **Stands for Full Democracy** *As democracy is a form of government, in which sovereignty is vested in the people, a democratic state must necessarily have universal suffrage* When some people are excluded from voting, there can be only restricted democracy If some people alone are privileged to exercise franchise on the basis of property or other qualifications, it implies that other people are at a disadvantage, and are not associated with the affairs of government

2 **For Development of Personality** *Every individual in the state should be given opportunities for the full development of his personality* This is possible only when there is universal franchise A person, who cannot vote obviously cannot also stand for election, and cannot be a member of the legislature Even if he has the ability, he is not allowed to participate in governmental affairs This subjects him to a great handicap, and the growth of his personality is stunted

3 **Inclusion of All** *Universal franchise includes all in giving adequate opportunities concerning governing matters* If only a few persons in a state are given franchise, it means others are excluded from the enjoyment of political power Unless there is universal suffrage, all cannot have a share in shaping the policies of government Policies, pertaining to home affairs and foreign affairs are the concern of all, and therefore they must be decided by representatives of all Those who have the right to vote will be privileged men and women, who are likely to use their position and power in their own interests, and not in the interests of all A government in the hands of a few cannot be expected to be fair and just to all

4 **Mass Education** Universal suffrage brings a sense of political equality all over the state, and makes the electorate proud of its position as chooser of government As periodically people go to the polls, they get scope to train themselves politically During election time, the voter is a very important man, and the candidates contesting elections and the various political parties seek his favour Thus the voter is forced to come out of his "shell" to play his role in the political life of the country

5 **More advantages than Disadvantages** Universal suffrage has more advantages than disadvantages, and several scholars say that universal suffrage must be the general rule T E Smith observes "The combined experience of Asia, Africa and the West Indies clearly demonstrates that widespread education and literacy are not essential conditions for the suceessful working of adult suffrage Given a suitable system of voting and elections conducted fairly, the backward peasant in an underdeveloped country is as capable of casting his vote intelligently in favour of the candidate of his own choice as the working man in Western democracies "[1]

The four General Elections in India (1952, 1957, 1962 and 1967), which were conducted in a peaceful and orderly manner speak volumes in favour of universal suffrage The people of India, including a vast mass of illiterate and ignorant people displayed their sound commonsense and power of judgement which people even in a sophisticated society in the West may envy In the first three General Elections, the people gave a verdict through the ballot box in favour of the Indian National Congress, the ruling party, but the serious lapses of the Congress, in recent years prompted the people at the Fourth General Election (1967) to return the Congress at the Centre with a greatly reduced majority and to return for the first time in some States parties other than the Congress to power

6 **Difficulties of Limiting Franchise** Limiting franchise only to the literate part of the population presents practical difficulties, though theoretically it looks sound In states which have made educational qualification one of the conditions for voting, officials have to verify whether a person can read or write This provides much scope to officials to make use of their discretion and thus open the door to partiality, favouritism and corruption 'In some of the states of the USA literacy tests are carried out in a way

1 Ibid p 1

which effectively disenfranchises a section of the Negro population,"[1] Most of the democratic states have decided in favour of universal suffrage, as it is, with all its drawbacks, better than restricted suffrage "External tests of fitness were gradually done away with, and in the democratic states *practically universal suffrage was achieved* in the twentieth century Universal suffrage was becoming a sacrament of the democratic religion "[2]

Disadvantages On the other hand, universal suffrage has been criticised by several eminent writers like Macaulay, Lecky, Sir Henry Maine, Bluntschli and J S Mill

The following are the drawbacks of universal suffrage

1 **Power to the Ignorant and Illiterate** Universal suffrage is likely to put the wrong people in power In a country like India there is nothing to prevent a rich but ignorant and incompetent man from standing for elections If all and sundry irrespective of an educational qualification are allowed to vote and stand for elections, there is the likelihood of power falling into the wrong hands

2 **No Progress** In some democracies, incompetent persons manage to reach seats of power With incompetent and ignorant people at the top there can hardly be any progress in the state On the contrary, such men at the helm of affairs will spell ruin on the state

3 **Misuse of Vote** A vote in the hands of a wrong man is not only a sheer waste but also a source of mischief An illiterate and ignorant man does not know anything about political affairs, and he is not competent to judge the fitness of candidates who stand for election For instance, how can a poor illiterate and ignorant villager in India cast his vote correctly, when he knows nothing about federalism, political parties and other matters? An ignorant man does not know for whom he should vote or others may press him to cast his vote in favour of a candidate lacking in competence and integrity It is also possible that he may sell his vote Universal suffrage in a backward country gives ample scope for mischief, bribery and corruption

4 **Injustice to Property Owners** J S Mill points out that a property-qualification is essential, and only tax-payers must be allowed to vote He says "Those who pay no taxes, disposing by

1 Ibid p 96
2 R Rienow *Introduction to Government* (1960) p 324

their votes of other people's money, have every motive to be lavish and none to economise" If property-owners and those without property are given the same political rights, the former will suffer and the latter will have undue advantage in the state As Finer points out, two reasons were given in favour of property qualification "One was that the possession of some property was a trustworthy indication that its possessor was educated and therefore competent to pronounce upon public affairs The other was that if those who had no property were enfranchised there would be an end of private property"[1]

5 **Vote to Women Harmful** Critics of universal suffrage are against woman suffrage Vote to women is harmful Women as a rule neither by capacity nor inclination are fit for taking part in the political affairs of their country If they are given the right to vote, their attention will be diverted from the affairs of the home to the affairs of the state, and thus the interests of the home will be neglected

D Woman Suffrage

Only in the recent years women secured the right to vote For ages, women remained in the background "Female disfranchisement arose out of no rational consideration of women's need to participate in political activity, but out of the general social position of women, as determined by sexual role, family life and religious tenets It was assumed that man was, or should be the head of the family and the lord of women, and that women's place was the home, it followed that women were *represented* in politcs by their husbands"[2] In modern times, women became conscious of their rights particularly after the Industrial Revolution broke out, and women like men started working in factories to eke out a livelihood

The following are some of the countries which gave vote to women Australia (1902), Burma (1922), Canada (1918), Ceylon (1931), China (1947), Czechoslovakia (1919-20), England (1918), Egypt (1946), France (1946), Germany (1919), Indonesia (1949), Italy (1945), Japan (1945), Poland (1919), Turkey (1934), Soviet Russia (1917) and the USA (1920 and some states earlier)[3]

1 *The Theory and Practice of Modern Government* (1961) p 230
2 Ibid p 233
3 R Fulford *Votes for Women* (1958) p 285

In India adult franchise was introduced according to the Constitution, which came into force in 1950, and all women like men secured the right to vote

Opinion is divided on the question of woman suffrage

Advantages The following are the advantages of woman suffrage

1 **For Women's Cooperation** Any democratic government to be successful has to take all including women into confidence, and seek their cooperation Democracy is government of the people, and hence women cannot be singled out for an unfavourable treatment A government deals with the affairs of both men and women, and what concerns both the sexes should be discussed by both If women do not have franchise, it will be unfair to them Discrimination against women goes against the principle of equality

2 **Opportunities to Women** Woman suffrage gives opportunities to women to come forward and serve in the interest of the state In various countries, there are capable women, and it is unjust to keep them out of the political field In India women like Mrs Indira Gandhi, Mrs Vijayalakshmi Pandit, Mrs Sucheta Kriplani, Mrs Tarakeshwari Sinha and Mrs Kamaladevi Chattopadhyaya and in Ceylon Mrs Bandaranaike have proved that women can do full justice to the jobs assigned to them In administrative or social service, several women all over the world have distinguished themselves Finer observes 'In the course of legislative proceedings women members have everywhere shown special interest in health, housing, temperance, social security, education, equality of economic conditions for the two sexes, international peace, and the abolition of white slave traffic '[1]

3 **Women's Interests Protected** Woman suffrage enables women to come forward in public life and protect their own interests When women secure political rights, civil rights become more meaningful to them The fact that women in general are weaker than men necessitates the inclusion of women in the political field by extending to them the right to vote What concerns women must be discussed by women Unless women are given a chance to exercise full political rights like men, they will suffer from great handicap If governments are run by men only, there is a possibility of doing injustice to women If women are included as members of a legis

1 Op cit p 234

lature, they will be able to throw much light on their grievances, which can be redressed through legislation

4 **For Progress** Woman's suffrage is bound to increase the pace of progress in a state, and it is the mark of a progressive state A country in which women are denied political rights will remain backward, as around fifty per cent of the population will have no franchise

Suffragist Movement in Britain Britain, a land of conservatives was reluctant to give suffrage to women Women in Britain had to fight tooth and nail to have suffrage and resorted to all kinds of tactics, some of which were violent and crude "The policy of the Union was accompanied by a complete lack of respect for any institution, except human life They seem in retrospect, a curious blend of Cromwell s Ironsides, the Irish Fenians and some shady little body of leftists In earlier days they had used courts of justice for propaganda from 1913 they treated the courts with contempt During the trial at the Old Bailey, following the burning of a house at Hampton, a hammer was thrown at the judge and a tomato at the prosecuting counsel Miss Nina Boyle on being sentenced at Bow Street called cheerfully to the magistrate, 'Good morning, Mr Pecksniff, we shall meet again ' Sir Henry Curtis-Bennett who was the magistrate at Bow Street and consequently tried many of the leading suffragists, was set on by two young women when he was enjoying the breezes on the North Down Cliffs "[1]

In 1918 British women aged over 30 won the right to vote, and in 1928 women were put on par with men by abolishing this age discrimination

Disadvantages The following are the disadvantages of woman franchise

1 **Harmful Influence of Women** Influence of women is harmful in the political field Scholars like Finer have expressed themselves strongly against "the wholesale entrance of women in politics" He says that diversion from objective consideration, telling lies for each other, wasting time in philandering, shielding women from responsibility, susceptibility to the charms and wiles of the opposite sex, and other evils are the result of the contact of different sexes "[2] Not only women are unable to do their political duties

1 R Fulford Op cit., pp 259-60

2 *The Theory and Practice of Modern Government* (1961) p 134

as efficiently as men, but they will also do a disservice to the state by distracting men's attention Finer clearly makes out a case against women's participation in political affairs with particular reference to co-education and co-operation in industry

2 **Bad for Home and Family** Critics of woman suffrage say that the entry of women in politics is bad for the home and family By nature and inclination, women should make the home the centre of their activities Child bearing, looking after children and attending to the work of the house in general take away most of the time of women A well-ordered home can exist only if women devote their undivided attention to protect and nourish the interests of the family If women devote their time and energy to political affairs, the home will be neglected and society in general will suffer Rift is bound to be there in a family in which the husband holds political views, which are different from those of the wife

3 **Feminine Virtues not for Politics** Feminine virtues are at their best in fields other than the political field The entry of women into the political field will make them neglect fields appropriate to their nature and temperament, and gradually their feminine virtues will fade

4 **Not for Military Service** It is better if women are kept out of military service Women are unable to meet all the obligations of citizenship and are unable to serve in the army While men will join the army in times of emergency, women will be unable to do so Here there is another factor going against woman suffrage

5 **Women Sentimental** It is said that women in general are emotional and sentimental, and in the political field, they will be distinctly at a disadvantage Women lack the level-headedness and sobriety of men, and if given political power, they will harm the interests of the state by allowing themselves to be swayed by emotions and feelings

6 **Limited Franchise and Excluded Classes** As stated already, all the people in a state are not given franchise Franchise is subject to certain restrictions in certain states In the past, in several Protestant countries, Catholics were excluded from voting In many European countries, Jews were not given Franchise

E Restrictions on Franchise

States may impose one or more of the following conditions for the exercise of franchise

1 Ownership of Property or Payment of Tax Owing to feudal influence, even in European countries, those who had no property were not given franchise Non-possession of property implied non-payment of taxes

But this view is regarded as incorrect, because even those who have no property pay indirect taxes to the state In Britain, till 1832, franchise was given to freeholders owning property worth forty shillings a year In British India, franchise was based on property or educational qualification In the USA too in some states, property ownership and tax-payment formed conditions of franchise In recent times, property qualification has been done away with, as unfair and unjust People are high-placed or low-placed by the accident of birth, and it is unjust to penalise people, who have no property It is also not admitted now-a-days that property-ownership is a guarantee of education

2 Educational Qualification In countries like Brazil and Chile, illiterate people have no franchise "There has been little use of literacy as a qualification for the franchise in modern Asia, but it has been and still is in common use in Africa Literacy is usually not an obligatory qualification, but rather one of the alternative qualifications in much of East Africa"[1] J S Mill is a strong advocate of educational qualification as a necessary condition for franchise

Scholars like Graham Wallas and Finer cavil at the attitude of Mill They are of the opinion that it is not education or knowledge that is of importance, as political issues are decided by people's aspirations and desires, and therefore the imposition of an educational qualification will exclude a large majority of people from franchise and do injustice to them

3 Sex Certain states give franchise only to males Owing to causes already stated before, women are excluded from franchise in several countries In Switzerland and other countries women have not been enfranchised

4 Residential Qualification Some states impose residential qualification The rule regarding residence varies from state to state

5 Race There are states in which race is one of the qualifications In the USA in the Southern States the Negroes have no franchise In Nazi Germany, Jews had no franchise

1 T E Smith *Elections in Developing Countries* (1960) p 97

6 Citizenship Citizenship is the most important qualification for franchise Only citizens of a particular state are given franchise in the state, while aliens are excluded

7 Age Age is another qualification It is believed that unless a person becomes mature, he is not fit to exercise franchise But there is no uniformity regarding age and different states have their own age qualification In India France and the USA every voter must be 21, in Russia and Turkey he must be 18, and in some other countries he must be 25 In several African countries the age is 21, in Zanzibar and Gambia, it is 25 "Countries in which the minimum age for voting is less than 21 include Indonesia Iraq and Syria"[1] In Syria the age is 18 "In Kenya the attainment of the age of fortyfive was one of the alternative qualifications "[2]

8 Freedom from Disabilities In various states, freedom from certain disabilities is essential In the past, military personnel had no franchise Bankruptcy insanity and conviction for criminal offences disqualify persons in most of the states In some states government servants have no franchise In Britain, aliens peers people of unsound mind and persons convicted for criminal offences and corrupt or illegal practices have no franchise

F Methods of Voting

The following are the different methods of voting

1 *Public and Secret Voting* Vote can be cast in two ways viz publicly or secretly There was a time when votes were given in public and reputed writers like Montesquieu and Mill justified it so also did Treitschke Montesquieu believed that public voting was a good method of educating the public Mill and Treitschke said that voting must be in the light of public gaze and criticism Voting was open in England during the major part of the nineteenth century such a system was in vogue even till very recently in West African territories

The disadvantages of voting openly more than counterbalanced the advantages Open voting is quite unsuitable, when the electorate is large Moreover, it embarrasses the individual and endangers his life Voters in countries in which there was open voting were exposed to threat and intimidation, and they could not exercise their franchise freely Hence, voting by ballot was introduced

1 Ibid p 18
2 Ibid p 90

2 *Postal and Proxy Voting* Generally, a voter has to go to the polling booth and personally cast his vote, but, in some countries, postal voting and proxy voting are permitted under special conditions

In Britain, the USA the Federation of Rhodesia, Nyasaland and the Federation of Malaya, certain types of voters experiencing genuine difficulties are given the facility of postal voting

In Malaya, *members of armed forces and of police forces* and election officials were allowed to vote by post during the 1955 elections

In the first General Election in India (1952) only certain government officials and members of the armed forces got the rights of postal voting Voting by post continued in the Fourth General Election (1967) also However, voting by post or proxy is easily exposed to evils, and so only in the case of states with high democratic traditions, this type of voting can be permitted

3 *Plural and Weighted Voting* *According to the principles of* democracy, all are given the same rights and opportunities, and hence, each individual has the right to give one vote only But there are states, in which the individual has two or even more votes This system is called plural voting

Plural voting was introduced in Belgium (1893), but it was given up in 1921

In Britain, an individual had several votes according to the number of qualifications he had The Reform Act of 1918 restricted the number to two votes per individual

In 1948 the Representation of the People Act abolished the plural vote altogether '*If plural voting is permitted, the more* fortunate group of electors either have several votes in one and the same constituency or they may have one vote in each of two or more constituencies Kenya is a current example of the first alternative, whilst Northern Ireland is a current example, and Sudan and Great Britain are past examples of the second alternative In Kenya each African elector is awarded one, two or three votes according to his qualifications, and he must cast all his votes in the constituency in which he is registered"[1]

Plural voting was criticised as an anachronism and was given up

Plural voting is justified on the following grounds

(1) It is believed that better qualified people should be given weightage for their intelligent opinion regarding the selection of officials

1 Ibid p 107

(2) All people should not be put on the same level To do justice to the people with greater interests and qualifications, there should be the system of weighing votes rather than counting them

(3) People having property have greater stake than those who do not possess it "The Belgian Constitution of 1893 carried the doctrine to the extreme A supplementary vote was awarded to the citizen thirtyfive years old who could claim legitimate parenthood and show receipt for a five-franc tax or ownership of certain landed property Two extra votes were allotted to the man over twentyfive, who had graduated from a secondary school or institution of higher learning or had held a public office or practised a private profession A limit of three votes per citizen was set"[1]

Despite these advantages more and more countries gave up plural voting Plural voting is criticised on certain grounds

(1) Plural voting destroys the principle of universal suffrage, which is the basis of modern democracy

(2) It is bound to lead to social injustice In many cases, people are educated or propertied owing to their good luck of being born in rich families and not owing to their own efforts It is unfair to place less fortunate people under a handicap If democracy means people's government, people with property should not be given privileges which are denied to others Giving plural votes to a rich man is as good as jettisoning the principle of equality without which democracy is meaningless

(3) Even if the principle of plural voting is accepted, it is difficult to give weightage fairly and evenly The whole system is complicated It also does injustice to certain persons who do not get plural votes, even though they are technically as highly qualified as others having a university degree For instance, to give an extra vote to a graduate but denying an additional vote to an architect or engineer is unfair

4 *Compulsory Voting* Generally, voting is voluntary Many people do not care to go to the polls either for personal reasons or owing to the annoying procedure of voting In a democracy, voting is regarded as a right and a duty and non-voting is looked down upon In Australia, a scheme was introduced in 1924 by which one who did not vote was fined

1 R Rienow *Introduction to Government* (1960) p 325

Compulsory voting had a good effect in several countries Alfred De Grazia says "In Australia, the adoption of a compulsory voting law in 1924 imposing a 10-dollar fine on non-voting brought an increase in participation from 59 4 per cent in 1922 to 91 4 per cent in 1925, 93 6 per cent in 1928, and 94 9 per cent in 1929 Belgium, Holland, Czechoslovakia, Spain, and the Argentine Republic also experimented with compulsory voting"[1]

However, in most of the countries, compulsory voting has not been introduced

G Constituencies

Area of Voters Territory in a state is divided into many districts for the sake of an election, and each electoral district is technically called a constituency A constituency is not a community, but a strip of territory in which voters live Representatives represent individuals and not communities[2] Boundaries of constituencies are carefully drawn, and these are revised periodically, particularly, if they are single-member constituencies A party in power carefully watches the delimitation of constituencies, as its future may be linked with a particular way in which boundaries are drawn The task of delimiting constituencies is not easy, and the method of delimitation may not satisfy all

In states like Britain, India, Nigeria, Mauritius and the Federation of Malaya boundaries of constituencies are drawn on the basis of recommendations made by impartial commissions

Constituencies are of two types (1) Single-member, and (2) Multi-member

1 Single-Member Constituencies

In a single-member constituency, one member is elected from one constituency, and the number of constituencies is equal to the number of members to be elected All constituencies are nearly equal in size Members of the lower chambers in the USA, Canada and Britain are elected by voters from single-member constituencies

Advantages The single-district or single-member district or single-member constituency has certain advantages

(i) *Simplicity* The single-member constituency is simpler than the multi-member constituency, and it can be understood easily

1 *The Elements of Political Science Political Behaviour* (1962) p 170
2 See J A. Corry, *Democratic Government and Politics* (958) p 268

(2) *Less Expensive* A single district being smaller than a multi-member constituency, election can be condtuced more smoothly and at a lesser cost than in a multi-member constituency

(3) *More Intimate Relationship* There is greater intim between the representative and the people in a single-memi district than in a multi-member constituency The representati knows people of his constituency well and so also the people ca know him well This paves the way to a better functioning of democratic government, and grievances can be easily redressed

(4) *Better Representation of Minorities* Minorities can be properly represented

(5) *Greater Responsibility of Member* To win the support in the constituency the representative takes a great interest in the constituency, and displays a sense of responsibility Local interests are better protected

Disadvantages The single-member constituency suffers from certain drawbacks

(1) *Narrow Idea of Representation* A single-member district gives rise to a very narrow idea of representation The member all the time thinks of his constituency, and the tendency to think in terms of the country as a whole is weak

(2) *Restricted Choice* People in a single-member constituency have a more limited choice than those in a multi-member constituency

(3) *Frequent Revision of Areas* This system needs a frequent revision of areas The party in power may indulge in gerrymandering that is it may reorganise areas in such a way that it becom- comparatively easy to win a seat T E Smith says that ge mandering is 'the adjustment of electoral boundaries so as to sec some object other than equal representation " Smith points that gerrymandering "has been used to good purpose in sor parts of the Commonwealth in an attempt to give as good guarantee as possible of minority representation in a multi-racia society "[1] 'In India gerrymandering is virtually prohibited b the constitution "[2] In spite of the advantages claimed by gerrymandering, it is an evil practice, and it may do more harm than good Lakeman and Lambert say It is evident that a prejudiced Boundary Commission may deliberately manipulate the boundaries so as to

1 *Elections in Developing Countries* (1960) p 12
2 Ibid, p 15

favour the one party or the other, and that it may be suspected of having done so even when it is completely innocent of any such intention "[1] The questionable practice secured the name of its author "The term *gerrymander* was coined after the name of Governor Ellis *Gerrymander* of Massachusetts who was responsible for the law of 1812 which ignored the natural boundaries of the State in delimiting constituencies "[2]

2 Multi-member Constituency or General Ticket System

In this system, the territory in the state is divided into several districts, each of which elects two or more members In other words the number of electoral districts in the state will be much smaller than the number of members to be elected

Merits The general ticket system has certain merits

(1) Reflects Majority Will This system is able to bring about the reflection of the majority will

(2) Wider Choice There is a wider choice of members before people in a multi-member constituency, and there is greater scope for better men to get elected

(3) Broad Idea of Representation The outlook of elected members will be broader than that of the members elected in a single-member district

Defects The general ticket system suffers from the following drawbacks

(1) Several Parties The general ticket system gives scope to the formation of several parties in a constituency and the people get confused when each party puts before them its own manifesto

(2) Less Intimacy The intimacy found between the representative and the constituents in a single-member constituency is absent in a multi-member constituency

(3) Complex Election is complex and costly

(4) Inadequate Representation to Minorities Minorities do not get adequate representation in this system

(5) Less Responsibility of Representative While the member in a single-member constituency tries to nourish his constituency and tries to redress the grievances of the people in his own interests and those of the party, such a tendency is absent in a general ticket system

1 *Voting in Democracies* p 72
2 Ibid p 72

MAIN POINTS

1 **Representation** Important in democracy a government by people's representatives Role of elections Origin of representation in modern times

2 **Theories of Suffrage** (1) Theory of Natural Rights (2) Tribal Theory (3) Feudal Theory (4) Ethical Theory (5) Legal Theory

3 **Universal Suffrage** Advantages (1) Stands for full democracy (2) For development of personality (3) Inclusion of all (4) More advantages than disadvantages

Disadvantages—(1) Power to the ignorant and illiterate (2) No progress. (3) Misuse of votes (4) Injustice to property owners (5) Vote to women harmful

4 **Woman Suffrage** Merits—(1) For women's cooperation (2) Opportunities to women (3) Women's interests protected (4) For progress.

Defects—(1) Harmful influence of women (2) Bad for home and family (3) Feminine virtues not for politics (4) Not for military service (5) Women sentimental

5 **Restrictions on Franchise** Qualifications—(1) Property ownership or payment of tax (2) Education (3) Male sex (4) Residential qualification (5) Race (6) Citizenship (7) Age (8) Freedom from disabilities

6 **Methods of Voting** Different methods (1) Public and secret voting (2) Postal and proxy voting (3) Plural and weighted voting (4) Compulsory voting.

7 **Constituencies** Areas of voters Single Member and Multi-member constituencies

Single Member Constituency Merits—(1) Simplicity (2) Less expensive (3) Intimate relationship (4) Better representation of minorities (5) Greater responsibility of member

Demerits—(1) Narrow idea of representation (2) Restricted choice (3) Frequent revision of areas

Multi member Constituency Merits—(1) Reflects majority will (2) Wider choice (3) Broad idea of representation

Defects—(1) Several parties (2) Less intimacy (3) Complex (4) Inadequate representation (5) Less responsibility of representative

CHAPTER 47

THE REPRESENTATIVE

A Elections

Organized Method of Periodical Popular Expression Every democracy holds elections periodically to choose its representatives In India, elections are held once in five years For elections and such other similar matters, Britain can be taken as a model "In form, a British general election is still the selection by each locality of a representative to consult with the representatives of other localities whose action shall be taken in the various affairs of the nation In fact an election has become a plebiscite to decide whether one party or another shall be empowered, for the next few years, to govern the country as it sees fit"[1] An election is a grand occasion for a democratic country, as the people feel that they are important, and their opinion of candidates is of great value "A democratic election carries some of the spirit of the Greeks visiting the Oracle of Delphi Elections are more, however, than a spontaneous outpouring of the public will They are a highly organized channel of popular expression"[2]

A vote is a valuable possession "Men made revolutions and sacrificed their lives for the vote To the disfranchised it appeared as the door for liberation from all chains"[3] In election time particularly the importance of the voter increases and he is much "in demand"

The electorate may elect the representatives directly or indirectly

1 Direct Elections

In direct elections, representatives are elected directly by the voters and not through an electoral college The members of the House of the People (Lok Sabha) at the Centre and of the Legislative Assemblies in the States in India and the members of the House of Commons in England are elected directly by the electorate

1 Lakeman and Lambert *Voting in Democracies* p 37
2 R Rienow *Introduction to Government* (1960) pp 337-38
3 R H Soltou *An Introduction to Politics* (1959) p 185

Merits Direct election has the following merits

(1) *Direct Contact* There is a direct contact between the people and the representative

(2) *Stimulates Interest* Direct election stimulates great public interest which an indirect election cannot

(3) *More Democratic* Direct election is more democratic than indirect election The people who have franchise participate in the election with great enthusiasm and responsibility They become conscious of the fact that they are the makers of their leaders or representatives in parliament

Defects The method of direct election suffers from the following defects

(1) *Electorate not Competent* The electorate may not be fully competent to judge the capacity of candidates standing for election This may be particularly true in underdeveloped countries

(2) *Scope of Demagogues* Direct election gives wide scope to demagogues to address meetings in the various areas and mislead the people by laying stress on matters which are really not important There may be much mud-slinging and personal vilification

(3) *Confusion* The ignorant, and sometimes even the average voter, may get confused, when the various agents of candidates approach him for canvassing the help of various devices Sometimes a candidate, whose propaganda is the best has chances to win even though by merit he may be the worst

2 Indirect Elections

In indirect elections, voters do not elect representatives directly they elect persons, who form an electoral college or an intermediary body to elect representatives Members of the Council of States (Rajya Sabha) at the Centre and of the Legislative Councils in the States in India, and the members of the upper chamber in France and of other countries are indirectly elected

Merits Indirect election has the following advantages

(1) *Eliminates Defects of Universal Suffrage* As an electoral college or an intermediary body elects members, the drawbacks of universal suffrage are eliminated

(2) *Proper Candidates Selected* As the members of an electoral college are superior to the average voter in the street, there is a greater possibility of election of the right type of candidates

(3) *No Popular Passions* The high election fever and the reign of popular passions are absent.

(4) *Evils of Party System Reduced* As indirect elections do not need the type of intense propaganda, which direct elections demand, the evils of the party system may be reduced

(5) *Good for Backward Countries* Indirect elections will yield better results than direct elections in countries in which the masses of people are illiterate, ignorant and economically backward R H Soltou observes ' The advantage of the indirect system is that it enables the elector to vote in a much smaller constituency for people whom he knows and trusts, that the 'intermediate' representative is in close touch with electors and is likely to be better educated and able to make a more enlightened final choice And indeed the argument is unanswerable where the electorate is illiterate, ignorant of broad issues and practically able only to choose between two or three men whom it knows "[1]

Defects The following are the defects of indirect election

(1) Undemocratic Indirect election is undemocratic, as it does not enable all the people to have a share in the election of leaders Leaders are elected by those, who are elected by the people

(2) Little Interest People have little interest in an indirect election For instance, while people in India have great interest in electing members of the Lok Sabha, they have little interest in the election of the members of the Rajya Sabha

(3) Bribery and Corruption Political parties may indulge in bribery and corruption They may try devious ways to buy the votes of the members of the electoral college

B Tenure and Qualifications of Candidates

1 Tenure

1 No Uniform Rule There is no hard and fast rule regarding the tenure of office of representatives As representatives are to face the electorate once in a certain period, no candidate can be elected for life The tenure of his office has to be laid down Generally, members of the upper chambers enjoy a longer tenure than members of the lower chamber While the tenure of the members of the Rajya Sabha (Council of States) in India is six years, that of the members of the Lok Sabha (House of the People) is five years In Britain, the House of Lords has no tenure as such, as

1 *An Introduction to Politics* (1959) p 184

its membership is hereditary and permanent, but the membe of the House of Commons are elected once in five years

Annual Parliaments not Feasible There was a time in Britain when opinion was in favour of annual parliaments But owing to the following causes the scheme of annual parliaments was not implemented

(1) *Too Short a Time* One year is too short a time for any government to do anything substantial The worth of a govern ment cannot be proved in a year

(2) *Discourages Work* Representatives will not take muc interest in their work as they know full well that at the end of th year, they will have to quit and make way for others, who also will do the same the next year like their predecessors

(3) *No Stability* There can be no governmental stability in a country, which holds yearly elections

(4) *Expensive* The cost of conducting elections will be high and with no commensurate return

(5) *Continuous Excitement* There will be never-ending excitement, when elections are too frequent

Practical difficulties made the various states in the world choose a tenure neither too long nor too short The tenure of five years for the lower house found favour with most of the states Annual legislatures are rare Only in two States of the USA the term of the legislature is one year

2 Qualifications of Candidates

All Adults not Eligible While in countries with universal suffrage all adults are allowed to vote provided they do not suffer from the prescribed disabilities, all adults are not eligible to stand for election and for contesting elections certain minimum qualifications are laid down These are necessary to safeguard the interests of the state

Generally the following conditions are to be fulfilled by a person, who desires to stand for election

1 Age Every state lays down that the candidates standing for election must attain the age a few years above the age of majo rity This age is not uniform in all states Generally, the age limit for the membership of the lower houses is 21 to 25 and the age limit for the upper houses is 5 to 10 years higher

In India at present the age limit for the Lower Houses is 25, and that for the Upper Houses it is 30 " As far as the author

is aware, the minimum age for candidates is nowhere lower than that for electors When adult universal suffrage has been introduced, it is often the practice to fix the minimum age for candidates and electors at the same level, this is the position in the United Kingdom, the Federation of Malaya and Ceylon (for elections to the lower house but not for the Senate)"[1] In India and Ghana, however, the minimum age for the candidates is higher than that for the voter

2 **Citizenship** Only citizens are allowed to stand for election, and aliens are excluded This is because the former will be fully loyal to the state, whereas the latter will be loyal to a foreign state, and may use their office for their own aggrandizement and to further the interests of their own country

3 **Residence** In some states, a candidate should be the resident of his own constituency In the USA a convention has been formed that a candidate for the House of Representatives should be the resident of the electoral district, though there is no constitutional provision as such, but for the membership of state legislatures in the USA, there is generally constitutional provision laying down the residential qualification In several states like India, Britain, British–West Africa and the Federation of Malaya, candidates need not reside in the constituency from which they stand for election

4 **Property** Though property–qualification is essential in certain democracies on the ground that property enables the representative to have adequate leisure, the general trend is against the continuation of this qualification Modern democracies accept the principle of equality, and so property owners are not given preferential treatment To meet the argument that those who have no property have no leisure for public work, payment for members of legislatures has been introduced

5 **Literacy and Education** *It is generally believed that* a candidate must be able to read and write the required language to a certain degree of proficiency to ensure that he should be in a position to participate in the proceedings of the legislature Zanzibar has laid down a simple literacy test, while countries like Kenya, Uganda, Ghana and Tanganyika demand a minimum of proficiency

6 **Deposit** To prevent all and sundry, who have no cause to uphold, and whose approach is frivolous, candidates are required

1 T E Smith *Elections in Developing Countries* (1960) p 119

to deposit money as per rules The deposit is repaid to the candidate, provided he secures more than a fixed minimum percentage of the votes cast in his constituency In India, in the First General Election, the candidate got back the deposit, if he secured more than one-sixth of the total number of votes polled in a single-member constituency, and one-sixth of the total votes polled divided by the number of seats in a constituency with more than one seat. "The *one-eighth* rule is fairly common in the British Commonwealth and is in use in the United Kingdom, Uganda, Tanganyika and the Federation of Malaya to take but a few examples"[1]

3 Disqualifications of Candidates

There are no uniform rules in all states pertaining to disqualification Generally the following types of people are not qualified to stand for election

1 Holders of Office of Profit In India government officials cannot stand for election as the Constitution of India bars those having any office of profit from becoming members of the legislature

2 Members of Executive in Presidential System In the presidential system as found in the USA, the President and the members of the executive cannot be the members of the Congress

3 Those Violating Election Rules Each state frames its own rules within the four corners of the constitution for conducting elections efficiently Violation of election rules and indulgence in corrupt practices disqualify a candidate

C The Status and Functions of the Representative

On Status of Representative Regarding the status of the representative, Garner classifies views into the following three categories

(1) the view that the representative is a delegate, deputy or agent of a particular constituency,

(2) the view that he is primarily to look after general interests and secondarily after particular interests of the constituency, and

(3) the view that he is the mouth-piece or spokesman of the political party, which gives him an election ticket[2]

Theories of Representation There are two theories of the position and functions of a representative

(1) The theory of Instructed Representation or the Telephone Theory, and

(2) The Theory of Uninstructed Representation

1 Ibid p 136
2 *Political Science and Government* (1955) p 605

1 Theory of Instructed Representation or the Telephone Theory

Representative a Mouthpiece According to the theory of Instructed Representation or the Telephone Theory, the representative is a delegate, and the electors issue instructions to the representative, who is expected to carry them out The representative is nothing more than a mouth-piece of the constituency that elects him From time to time, the representative should take orders from the constituency and conduct himself in the legislature according to the electorate's instructions and if he goes contrary to the wishes of his "masters', he can be recalled

Merits The following are the merits of the theory

(1) Serves People's Interest An instructed representative can not deviate from the path marked out by the constituency He will all the time have to work according to instructions in the interests of electors As a delegate, the representative will translate the principle of people's sovereignty into practice

(2) People's Will Expressed The voice of the people in a constituency is expressed through the instructed representative The voice of the representative is not his own, but it is 'His Master's Voice' True democracy is possible only through instructed representation

(3) Good for Federal States Units of a federation can be properly represented, and their interests can be championed only by instructed representatives in the federal legislature

Defects The system of instructed representation suffers from serious drawbacks, and scholars like Laski and Lieber have severely criticised it

The following are the defects of the theory

(1) Absence of Instruction Owing to various reasons, instruction from the constituency may not be available at all, and even if available, it may not be clear Then the representative will not be able to know what exactly is expected of him

(2) Constant Instruction not Possible Even if the people of a constituency are capable of giving instruction, it will be impossible for them to give instructions constantly Similarly, it will not be feasible for the representative to discuss every problem in his constituency frequently and seek instructions The theory wrongly expects the representative to do something which is not practically possible.

(3) Attitude Has to Change The attitude a representative will follow and the views he will express in the legislature depend upon the trend of discussions there The representative cannot have his mind closed to new ideas The representative cannot remain rigid without modifying his attitude in the light of the deliberations in the legislature It will not be possible for him to stick rigidly to the instructions of the electorate

(4) Will Discourage Competent Men If the theory of instructed legislation is to prevail intelligent and competent persons will hesitate to contest elections, as they will be expected to remain subordinate to the will of the constituency They will not be able to play an effective role in the legislature by playing second fiddle to the voters and by surrendering their better judgement

(5) Problem of Measuring Genuine Will Even if a representative is prepared to act as the agent of the district, it will not be possible for him to know the will of the people This will be a great problem particularly in backward countries

2 Theory of Uninstructed Representation

Representative not Mouthpiece The defects of the theory of instructed representation and the actual difficulties in following it, made states reject this theory, and accept the theory of uninstructed representation This theory says that the representative, who is elected for his superior qualities is not to be treated as the mouthpiece of the voters He is free to conduct himself in the legislature as he likes, and express his own thought and judgement He is not to labour under the belief that he is to carry out all the instructions of the voters in a mechanical way This theory is supported by most of the writers

Representation of Whole People The principle that representatives speak for the whole people and not for the people of their constituency only has gained ground In countries like France and Switzerland, law clearly states that representatives represent the whole people and not the constituencies which elect them, and that they are not subject to the instructions of the voters Scholars like Laski have criticised the theory of instructed representation In the eighteenth century, Burke vehemently attacked it J W Garner says 'The representative system is founded on the assumption that representatives will be elected who are more familiar with public affairs and better qualified to look after them than is the average elector, in these circumstances what the electors have

to do, as Sidgwick well remarked, is to choose such men and not to teach them the business of government"[1]

Merits The following are the merits of uninstructed representation

(1) Wide View of Representation The representative will have a wide view of representation In the legislature, he will play the role of the representative of the nation rather than the spokesman of a small region Thus, wider loyalties will be developed

(2) Freedom of Expression and Judgment The representative, proud of his own status, will think intelligently and express himself freely in the interests of the constituency and also in the larger interests of the nation He will exert himself to his full capacity, as he is aware that he is not the mouth-piece of his constituency

(3) Services of Capable Men As representatives are given wide freedom, capable men will come forward to contest elections, and the nation will have the advantage of their services

Defects All representatives elected by the people may not come up to the expectations of the people Some may neglect their duties, and overlook the interests of their constituency and of the whole nation The drawbacks of the system of uninstructed representation are to a great extent eliminated by the customs and usages evolved in various ways, not to speak of statutory regulation

Safeguards to People The interests of the people can be safeguarded in the following ways

1 **Fixed Tenure** The rule fixing the term of membership goes a long way in keeping representatives on the path of rectitude Repre entatives are compelled to safeguard the interests of the voters as they are likely to lose their prestige in the constituency, if they flout the wishes of the people If they become unpopular in their locality, they have very meagre chances of getting elected in the next election

2 **Party System** Political parties impose discipline on their members Candidates other than independents contesting elections on the basis of tickets given by political parties are expected to follow the policies and programmes of the parties concerned There cannot be a difference between their stand at the

1 *Political Science and Government* (1955) p 674

elections and their stand in the legislature In case, they turn th
coats, they are supposed to resign and seek fresh election Th
the party system protects the interests of voters, who can easi
know the political colour of candidates As Laski aptly puts it
the representative 'is not entitled to get elected as a free trader
and to vote at once for a protective tariff"

Unfortunately, in India since the Fourth General Election
1967, for the sake of power, many members of State Legislative
Assemblies crossed the floor with an easy conscience Lure f
power made them betray the electorate or the political party
which they belonged

3 **Compromise Between National and Local Interests** By
commonsense, custom and convention the representative has to
strike a golden mean between national and local interests But it
will not be possible to draw a hard and fast line between national
interests and local interests In fact, there are several problems,
which pertain both to regional and national interests

3 **Functions of the Representative**

Commonsense and Service No book laying down in back
and white principles on functions is available to the representative
for guidance from day to day What the representative should do or
refrain from doing is based on sound commonsense, the spirit of
service and dedication, patriotism and national feeling A represen
tative sets a noble and proud record if he bears in mind the
following principles

(1) *Protection of National Interests* The nation is greater than
the locality and between national interests and regional interests,
the former should receive priority

(2) *Spirit of Service* The representative should be guided by
the feeling of service to the people of the region and to the nation

(3) *Regular Attendance* He should attend the sessions of the
legislature regularly and participate in the deliberations

(4) *Criticism of Government* He should study the policies and
conduct of government, and criticise it on the floor of the legisla
ture

(5) *Constructive Suggestions and Co-operation* He should refrain
from indulging in destructive criticism of government, but shdoul
make constructive suggestions to improve the tone of adminstra
ion and the lot of the people

(6) Integrity He should inspire confidence in the people of his country, and set an example to others in integrity

All representatives do not acquit themselves creditably, and after their election, people find them woefully lacking in compe tence and integrity In highly advanced countries, representatives serve the nation with sincerity and distinction, and carefully avoid the wrath of the electorate, the same cannot be said about democracies in their incipient state As stated above, in India, several representatives bring discredit and disrepute to democracy by their defections and misconduct

D The Majority and the Minorities

Majority in Legislature Does not Necessarily Mean Majo rity of Votes The results in modern elections may mislead the unwary observer The successful candidates need not necessarily enjoy the confidence of the majority of the voters and such candi dates, who are members of the majority party in parliament may form a government and wrongly proclaim that they enjoy the confidence of the people

Everywhere in the world, political parties have come to stay Each party in a state tries to capture as many seats as possible and secure a majority in the legislature In an election in a single member constituency, one who scores the highest number of votes is declared elected The elected person represents the people, who gave him votes, and not the people, who voted for his rivals The successful candidate may not always secure the majority of the votes cast in his constituency It is possible that in a three-cornered contest in a single-member constituency, a member poll ing, say only 40% of the votes may be the successful candidate This means that the legislature may not represent the majority of the electorate The party commanding a majority in the legislature may not enjoy the confidence of the majority of the electorate Lakeman and Lambert observe in their *Voting in Democracies* "The first-past-the-post system is thus seen to be unreliable as a means of attaining any of the objects held to be desirable It cannot be relied upon, either to give a Parliament reflecting all the main trends of opinion, or to pla e in power a government backed by a majority of the electorate, or even by the largest single body of voters "[1]

1 Op cit p 49

The results in the constituency may be as follows

Total votes polled	3000
Votes for A	1100
Votes for B	1000
Votes for C	900

It is presumed here that no vote is invalid A is declared elected, but in the legislature, he does not represent more than 1100 persons from the constituency, and 1900 persons are not represented by him "Ever since it became common for more than two candidates to contest a single seat, it has been obvious that simply to declare elected the candidate having the highest number of votes may grossly misrepresent the wishes of the voters in that constituency "[1]

Defects The following are the defects in the system election

1 **Successful Candidates May not Represent Majority** As stated above, the successful candidates in single-member constituencies with three or more contestants may not get a majority of votes

2 **No Representation to a Large Section of Population** Even in a single-member constituency with only two candidates contesting the seat, the successful candidate may secure only 51% of the votes as against 49% polled by the defeated candidate Thus 49% of the voters may go unrepresented, and these may include members belonging to large minorities

3 **Undemocratic** When a large number of people remain unrepresented and have no voice in the conduct of government, there cannot be democracy in the true sense J W Garner criticises the system of majority representation 'The system of majority representation is criticised as undemocratic and unjust, because it in effect permanently disfranchises large number of electors and leaves them without representation because they are politically in a minority in their constituencies "[2]

4 **Difficult to Enforce Laws** Government may find it difficult to enforce laws, when many people are not in a mood to obey them When laws are framed by the representatives of the majority only, the disgruntled minorities may not willingly obey the laws of the state, in framing which they had no share

1 Lakeman and Lambert *Voting in Democracies* p 51
2 *Political Science and Government* (1955) p 591

5 **Tyranny of the Majority** The brute majority may use the government to strengthen its own party, and may tyrannise over the people Government run by the majority party in parliament may pass laws to strengthen itself without the least regard for the interest of the minorities and for the public interest in general

E Representation of Minorities

The need of giving adequate representation to minorities has been widely recognised, and political thinkers and statesmen app lied their mind seriously to study the vexed question J S Mill, Lecky and others strongly supported the move to give represen tation to minorities

The following methods of minority representation have been evolved

(1) Proportional Representation,
(2) the Limited Vote Plan
(3) the Cumulative Vote Plan,
(4) the Second Ballot System,
(5) the Alternative Vote System, and
(6) the Communal Electorate

In some form or the other, proportional representation was introduced in Belgium, Denmark, Switzerland, Finland, Sweden Bulgaria, Portugal, Serbia, Cuba and Tasmania

1 Proportional Representation

There are two types of proportional representation (a) The Hare System of Single Tranferable vote, and (b) The List System

(a) The Hare System of Single Transferable Vote (or the Andrae System)

The author of the Hare System, which was first given in 1851 was Thomas Hare, an Englishman, who described it in his book *Election of Representatives* In 1855 Andrae, a minister introduced the scheme in Denmark, and hence it has been also called the Andrae System "The object of the single transferable vote is to enable each citizen to take part as freely and as fully as possible in the selection of his own representative, in the belief that this is the essence of true democracy "[1]

Features The following are the features of the Hare System

1 **Multi-Member Constituencies** The scheme requires multi member constituencies, and is not possible in single-member cons

1 Lakeman and Lambert *Voting in Democracies* p 93

tituencies There should be at least three seats in a constituency "The single transferable vote requires a constituency with at least five members if it is to achieve its purpose of enabling each substantial minority to elect a member '[1]

2 **One Effective Vote and Marking Preferences** The voter has only one *effective* vote, but he marks out the order of his preferences If five candidates, A, B, C, D and E stand for election, the voter mentions his order of preferences, for instance, it may be as follows

Constituency

Total No of votes	5000
No of seats	3
Quota needed by each candidate by the Droop Formula	$\frac{5000}{3+1}+1=1251$

Voter's Preference

Candidate	Preference
A	2
B	5
C	4
D	1
E	3

A voter in this case has given his first preference to D and his last to B

3 **Quota** In a single member constituency in which there are two contestants, the candidate needs a majority of votes for success But here a candidate need not secure a majority of votes, what he requires is a quota, which is fixed by the Droop Formula According to the simplest formula that is, the Hare Formula, the quota needed will be one-third of the number of votes, that is 1666 (The fraction of the result is left out) The Droop Formula which is a slight modification of the Hare Formula is

$\frac{\text{Total number of votes}}{\text{Number of seats}+1}+1$ The quota needed in the aforesaid example is 1251 In the first counting, only the first preference votes are counted Candidate D may secure 2000 first preference votes, but what he needs for his quota is 1251 only, the remaining

1 J A Corry *Democratic Government and Politics* (1959) p 274

votes are therefore transferred to the candidate, who is next in rank in votes The method of transferring the votes in excess to the quota goes on till the required number of representatives is elected

4 **Transfer of Votes** As stated above, the votes beyond the required quota are *transferred to the next candidate*

5 **No Loss of Votes** In this system no vote is lost, it is only transferred

Where Followed The single transferable vote is in vogue in South Africa for Senatorial elections and in some municipalities, in Canada in the case of municipal elections, in the Republic of Ireland and in India in the case of elections of the members to the Rajya Sabha (Council of States) In Britain, it was followed in the election of members to the four university constituencies of the House of Commons

Lakeman and Lambert summarise the advantages of the single transferable vote "(1) the elected body reflects within limits of a few per cent, the strength of political parties or other groups of opinion among the voters, (2) any party or other group having a majority of votes will have a majority of seats, (3) the element of the gamble is eliminated, (4) the elector is enabled to choose between candidates on personal as well as party grounds"[1]

(b) The List System

The List System is another form of proportional representation

Features The following are the basic features of the List System

1 **Voting for Lists** In this system, the voters vote not for candidates, but for a list Candidates are put in lists according to their party affiliations Every party gives a list of its candidates according to the number of seats, in each constituency Votes are cast not for a candidate but for the lists furnished by parties

2 **Quota** The quota needed by a party is fixed according to the principle given by the Hare System

3 **Fractional Surplus** In case, a certain seat remains *unfilled*, the party which secures the highest fractional surplus annexes the remaining seat, or the fractional surplus secured by a party in a nearby constituency may be transferred to the required constituency in order to be added up to cover the deficiency An example can explain the situation

1 Voting in Democracies p 131

Constituency

Votes given	1,00,000
Number of seats	5
Quota required by a party according to the simple calculation	20,000
Names of contesting parties	A, B & C
Votes secured by the list of A	43,000
Votes secured by the list of B	41,000
Votes secured by the list of C	16 000

As parties A and B secure more than double the required quota, each annexes two seats Party C falls short of the quota by 4 000 and it secures no seat at all According to one principle of fractional surplus, Party A should annex the remaining seat but according to the second principle, Party C can get it by adding 4000 surplus votes scored by it in a neighbouring constituency

Merits and Demerits of Proportional Representation (PR)

Merits Harry Eckstein in his essay *The Impact of Electoral Systems on Representative Government* says " For a defence and justification of PR the arguments presented by John Stuart Mill in his *Constitutions on Representative Government* have scarcely ever been bettered PR would lessen the responsibility of a tyrannous majority by assuring minorities of some sort of representation It would help to make parliament into something like a faithful image of the nation, rather than distorting representation in favour of the majority by forcing minorities to waste their votes on the constituency level [1]

The following are the merits of PR

1 **Reflection of Popular Opinion** PR is able to reflect popular opinion in a consituency with a fairly good accuracy

2 **Representation of Minorities According to Strength** The various minorities and groups secure representation in the legislature in proportion to their voting strength

3 **No Wastage of Votes** As votes beyond the required quota are transferred votes have value, and they are not wasted 'Having by multi-member constituency made it possible for the votes of two or more bodies of citizens to become effective, we can make it certain by the same principle which ensures that a pound note

1 Eckstein and Apter (Ed) *Comparative Politics* (1963) p 141

will buy one pound worth of goods by allowing the owner of the pound, who finds that his first choice is for one reason or another unavailable, to choose again as many times as may be necessary."[1]

4 **Enforcement of Law Easy** Laws passed by the legislature reflect the opinion of the majority of the people Such laws can be easily enforced as they can command the willing loyalty and obedience of the people Government can secure better cooperation from the public, as minorities are not disgruntled

5 **No Tyranny of Majority** Democracy becomes meaningful and not a mockery, as there is no tyranny of the majority, and minorities live with a sense of security

6 **No Gerrymandering** Gerrymandering, an evil associated with single member constituencies will not be in PR, as there are multi-member constituencies

7 **PR with Wide Choice** PR provides the voter with wide choice of contestants E B Schulz points out "The single transferable vote system grants the individual voter the maximum possible freedom in the choice of candidates and at the same time insures proportional representation for competing parties if voters give the highest ratings to the nominees of their respective parties"[2]

Demerits The following are the demerits of PR

1 **Evils of Demagogy, Class Legislation and Pluralistic Stagnation of Government** Sidgwick is of the opinion that PR exposes the individual to the menace of demagogy and encourages the evil of class legislation[3] F A Hermens in his *Democracy or Anarchy*? vehemently criticises PR Eckstein points out "Hermens argues that the probable results of proportional representation are the pluralistic stagnation of representative government, through pluralistic stagnation a general malfunctioning of democracy and disaffection from it, and through these the probable collapse of democratic institutions By pluralistic stagnation he means mainly (though not only) the incapacitation of democracy's decision-making processes, which occurs as a result of a number of consequences flowing from PR PR radicalises as well as splinters political forces—makes them more dogmatic, more *ideological*,

1 Lakeman and Lambert *Voting in Democracies* p 100

2 *Essentials of Government* (1961) p 344

3 See J W Garner *Political Science and Government* (1955) p 514

more incapable of compromise, and thus impedes integration on the parliamentary, no less than the electoral level"[1]

2 **Complicated System** The system of proportional representation is very complicated and the ordinary voter is unable to understand easily the difficult method and procedure The complex way of counting enables conductors of elections to resort to questionable methods

3 **Confusion and Lack of Intimacy** As PR requires multi-member constituencies with at least three seats, these is little scope for personal contact between the voters and the representative As constituencies are large and have a huge population various political parties function on behalf of several candidates The electorate gets confused, and no intimate connection with the electorate can be formed by the candidate

3 **Hard Bargaining by Minorities and Lack of Stable Government** Minorities get an upper hand, which is utilised for hard-bargaining and furthering their own ends "When it becomes electorally possible for minorities to count confidently on getting at least a few seats they reject middle of the road programmes and set out in full cry to realise their interpretation of good life"[2] Minorities are not prepared to extend their co-operation to the majority The functioning of various parties and the rise of several minority groups prevent the formation of stable government In the legislature no party may have a comfortable majority and it is not possible to have a stable government A country has to make shift with coalition governments, which carry on their work precariously

5 **Encouragement of Centrifugal Forces** Proportional representation in a country encourages centrifugal forces and fissiparous tendencies The existence of various minorities, parties and groups may come in the way of political stability R Rienow says "A more serious objection to PR is that it aggravates the problem of minorities It encourages the formation of splinter groups it promotes a type of leadership that emphasizes differences rather than similarities It offers the prize of prominence to the man who can guide his fellow citizens to an identification of their separateness"[3] C F Strong points out that PR encourages "minority thinking

1 Eckstein and Apter (Ed.) *Comparative Politics* (1963) pp 250–51
2 J A. Corry *Democratic Government and Politics* (1958) p 277
3 *Introduction to Government* (1956) p 376

and freak candidatures which may be positively inimical to social health, if for example possibly sinister interests, like betting and the anti-social forms of money leading, should gain representation through a sufficient number of interested parties getting together by the enlargement of the constituency"[1]

6 **Splintering of Parties and Centralisation of Control** J A Corry speaks of two undesirable tendencies viz the splintering of political parties and the increase in undesirable centralisation of control of the political parties, and points out that the list system is more dangerous in these respects than the single transferable vote system PR enables certain parties to indulge in all kinds of manoeuvring, which may be dangerous to the interests of parliamentary democracy The example of Germany under the Weimar Constitution tells how the Nazi Party managed to rise to power through questionable methods for which the list system provided ample scope

7 **No Bye-Elections** In a democracy, bye-elections are like barometers of public option, but PR provides no such barometers

With all these drawbacks, PR has been found useful in certain countries like Belgium, Switzerland, Norway and Sweden

2 The Limited Vote Plan

The Limited Vote System is also devised to give representation to minorities, though it is not proportional

Features The following are the basic features of the Limited Vote Plan

1 **Multi-Member Constituencies** This system requires multi member constituencies, and cannot work with single-member constituencies Each constituency should have at least three seats

2 **Number of Votes Smaller than Seats** The voter is to cast a smaller number of votes than the number of seats If there are six seats in a constituency, a voter is not to cast more than five votes

3 **Distribution of Votes** The voter is to distribute his votes among the different candidates, and is not to give more than one vote to one candidate "This device-the limited vote-is thus capable of giving due representation to both majority and

1 *Modern Political Constitutions* (1958) p 180

2 *Democratic Government and Politics* (1958) p 274

minorities, and of securing that each shall be represented by its most popular candidates"[1]

Now Obsolete The Limited Vote system is not in vogue now It was tried in countries like Italy, England and Japan for election of members to lower chambers The system is workable in countries in which there are few parties, and in which the minorities are large It does not provide for proportional representation The system is not being followed at present

3 The Cumulative Vote System

The cumulative vote system or the "plumping" system is another method to give representation to minorities

Features Its features are the following

(a) Multi-member Constituencies Constituencies have to be multi-member

(b) Cumulative Voting The voter has as many votes as there are seats, and he is allowed to distribute his votes among the different candidates, or give all his votes to one candidate only

Evaluation The cumulative system gives chance even to a small minority to return at least one member, as its representative is likely to get the cumulative votes of the members of the minority But this system has the following defects

(a) Representation is not proportional
(b) It encourages the evils in the party system
(c) Votes are wasted
(d) Constituencies have to be large

4 The Second Ballot System

The Second Ballot System also tries to give representation to minorities To avoid injustice to voters, a second ballot is held in the following manner

Results of First Ballot

Total votes polled in a constituency	15,000
Votes polled by X	6,000
Votes polled by Y	5,000
Votes polled by Z	4,000
No of seats	One
Successful candidate	X

1 Lakeman and Lambert *Voting in Democracies* p 75

A close scrutiny of the results shows that the majority of voters have not voted for X, the successful candidate, the votes of the majority are distributed between Y and Z So a second ballot is taken, in this, candidate Z who secured the smallest number of votes is eliminated In the second ballot, it is possible that 3500 (who originally voted for Z) may now vote for Y and 500 voters (who originally voted for Z) may vote for X The new picture will be as follows

Votes for X 6000+500=6500
Votes for Y 5000+3500=8500

So, in the second ballot, Y scores more than X, thus showing that between the two, the voters prefer Y

If the number of seats contested is two or more, then a third or fourth ballot may be held The second ballot was attempted in England and in several European countries, and was given up, it lingers in France for some elections Lakeman and Lambert criticise it 'Clearly, this may be a very long process, troublesome, costly, and liable to cause such loss of interest on the part of the voters that the poll decrease considerably each time and the final winner may end with fewer votes than he had on the first count"[1]

5 **The Alternative Vote**

To eliminate the drawbacks of the second ballot system, the Alternative (or Preferential or Contingent Vote) System is followed Lakeman and Lambert point out "The cumbersomeness of the second ballot (or exhaustive ballot) can be removed by taking the successive votes in single operation—that is, by asking the voter to indicate, on his original and only ballot paper, how he would vote if his favourite candidate were defeated and he had to choose again among the remaining candidates"

Features The following are the features of the Alternative Vote

(a) *One Vote* A voter has to cast one vote only

(b) *Preferences* The voter is to indicate his preferences The candidate who secures absolute majority in the first preference is declared elected In case, no candidate secures an absolute

1 Ibid p 53
2 Ibid p 54

majority, the candidate who secures the least is eliminated, and his votes are transferred to the other candidates according to the second preference The process of elimination and transfer will continue till a candidate secures an absolute majority

6 Communal Representation

Voting according to Communities Communal representation was introduced in India by the British with the clear imperial motive of divide and rule Communal representation may be made in two ways

(a) *Separate Electorates* Hindus Muslims and Sikhs form separate electorates, that is, Hindus vote for Hindus, Muslims for Muslims, and Sikhs for Sikhs

(b) *Joint Electorate with Reservation of Seats* In a joint electorate, seats may be reserved for a minority based on caste or religion For instance, the electorate may be joint but a seat may be reserved for a scheduled caste candidate

The British gave effect to the principle of communal representation through the Minto-Morley Reforms (1909) and the Montford Reforms (1919) The evil seed of separate electorates ultimately became the tree of partition

The constitution-makers of India have to be congratulated for abolishing the curse of separate electorates However, the Constitution has provided for the reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and in Vidhan Sabhas

Communal representation has the following serious defects

(1) People get accustomed to think along communal lines as against national interests

(2) It divides a country into groups which suspect and dislike one another

(3) Stable government cannot be formed, as it facilitates the constitution of coalition ministries

(4) It is antidemocratic, as it does not think in terms of all the people, but of so many communal compartments

F Functional Representation (FR)

Representation to Functional Groups and not to Territories Certain thinkers are of the opinion that territorial representation does not represent the various interests in society, and it does much injustice to the different functional groups. Hence, they advocate the system of functional or occupational representation It is said

that even proportional representation is no solution to inadequate representation or misrepresentation, as it seeks to provide representation only to minorities R Rienow says "The proposal for functional, professional or occupational representation is founded, too, on the assumption that two plumbers at separated points in the country have more interests in common than either has with his next door neighbours "[1] In a legislature, members are not to represent the various areas but the different functional groups

In the eighteenth century, Mirabeau and Sieyes in France spoke of giving representation in the legislature to the various interests Duguit emphasised the need of giving representation to "industry property, commerce, manufacturing professions and even science and religion"

Advocacy by Guild Socialists and Others The theory of functional representation, it is said, came from thinkers like G D H Cole Cole spoke in terms of "as many separately elected groups of representatives as there are distinct essential groups of functions to be performed" Brougham in Britain said that every class and interest in the community should be represented The other writers who advocated its introduction were Prins, De Greef, Charles Benoist, La Grasserie Albert Schaflle and Sanpolos Leroy in France wrote several treatises on it[2] J A Corry points out "The plans of the guild socialists and of others who took up their underlying idea proposed that functional or occupational representation should supersede the outmoded territorial representation Every important specialised interest or function would form a separate electorate and choose representatives to a council that would govern its affairs"[3] (See Chapter 30 on Guild Socialism) The principle of functional reprsentation is upheld by communists too Communists think of the interests of workers and the rule of the proletariat

Examples In the USSR, functional representation has found expression through the Soviet system The territorial representation has yielded place to functional representation In the USSR, representatives represent not so many districts but so many vocational interests

In Italy, Mussolini established the Fascist Corporate State

1 *Introduction to Government* (1969) p 377
2. See J W Garner *Political Science and Government* (1955) pp 633-37
3 *Democratic Government and Politics* (1955) p 290

In Germany, according to the Weimar Constitution of 1919, provision was made for constituting a National Economic Council to represent the interests of producers, workers and consumers.

Provision for similar councils was made in the constitutions of the new states of Yugoslavia and Poland "Firmly seated dictators enforce on every group and function a view of the national interest, whether or not one agrees with a view of the national interest, whether or not one agrees with their interpretation Thus they have no need to fear such self-expression of functional organizations as they follow "[1]

Salazar introduced the scheme in Portugal

Evaluation There is much truth in what the advocates of FR say There is real need to uphold the interests of various groups based on function or vocation But there are practical difficulties in implementing the principle of FR, and the harm that it spells counterbalances the advantages it confers on a people

Defects The following are the defects of FR

1 **Illusion and False Principle** Scholars like Esmein and Laski have strongly criticised it Esmein criticised it as 'an illusion and a false principle which would lead to struggles, confusion and even anarchy "

2 **Worse than Territorial Representation** The disadvantages of FR from the point of view of society are more than the drawbacks of territorial representation Hence, between the two, territorial representation is to be preferred

3 **Promotes Fissiparous Tendencies** If the principle of FR is accepted, people in the state get habituated in thinking along functional or vocational lines rather than along national lines In the legislature, representatives will champion the cause of particular functional groups Full scope will be given to the varied groups to quarrel with one another

4 **Not Representing Minorities** While important functional groups are represented, the various minorities may go unrepresented

5 **Practical Difficulties** There are practical difficulties in the way of FR. It is difficult to devise a method, which would give representation to a large number of vocations and to provide representation to workers who shift from one group to another

1 Ibid p 291

6 Many Parties Various functional groups will give rise to several parties, and it will be difficult to have a stable government

7 Narrow View of Representation Functional representation is based on an extremely narrow view of representation R Rienow says "The fallacy of occupational or functional representation lies in its assumption that the whole person is subordinated to his narrowest specialisation "[1]

Owing to these drawbacks, territorial representation has been found better than FR, and most of the thinkers are in favour of giving further lease to territorial representation

MAIN POINTS

1 Elections Organised methods of periodical popular expression Elections—direct and indirect Direct elections are more democratic

2 Representatives (1) Tenure No uniform rule Not to be too long or too short Annual parliaments not feasible Five years favoured (2) Qualifications of candidates Age citizenship residence property and literacy (3) Disqualifications Office of profit Violation of election rules

3 Status and Functions of Representative Two theories (1) Theory of Instructed Representation Representative is mouthpiece of voters To carry out instructions

Merits—(1) Serves people's interests (2) People's will expressed (3) Good for federal states

Defects—(1) Absence of instruction (2) Constant instruction impossible (3) Will discourage competent men (4) Difficult to measure will of the constituency

(2) Theory of Uninstructed Representation Representative not a mouthpiece Representation of whole people

Merits—(1) Wide view of representation (2) Freedom of expression (3) Services of capable men (4) Safeguarding interests of voters

4 Majority and Minorities Majority in legislature does not necessarily mean majority of votes Defects in the system of election (1) Successful candidates may not represent majority (2) Undemocratic (3) No representation to a large section of population (4) Difficult to enforce laws (5) Tyranny of the majority

5 Representation of Minorities (1) Proportional Representation (a) Single Transferable Vote Features—1 Multi member constituencies 2 One effective vote and marking preferences 3 Quota (b) List System—Voting for list quota and fractional surplus

Merits of PR—1 Reflects popular opinion 2 Protects minorities 3 No wastage of votes 4 Law enforcement easy 5 No tyranny of majority 6 No gerrymandering

1 *Introduction to Government* (1960) p 378

Defects—1 Evils of demagogy class legislation and pluralistic stagnation 2 Complicated system 3 Confusion and lack of intimacy 4 Encouragement of centrifugal forces 5 Splintering of parties and centralisation of control

(2) Limited Vote Plan–Multi-member constituencies votes smaller in number than seats and distribution of votes System now obsolete

(3) Cumulative Vote—Multi-member constituencies and cumulative voting

(4) Second Ballot System Elimination of the lowest candidate and second voting

(5) Alternative Vote—One vote and preferences

(6) Communal Representation—Voting according to religion and caste in British India

(7) Functional Representation Representation according to function and not territory Advocacy by Guild Socialists Examples—Soviet Russia Poland Yugoslavia etc Defects—1 False principle 2 Worse than territorial representation 3 Promotes fissiparous tendencies 4 Minorities not represented 5 Practical difficulties

Section XIII

THE LEGISLATURE

CHAPTER 48

ORGANISATION OF THE LEGISLATURE

A Meaning and Importance of the Legislature

Three Branches of Government *The state* is a politically organized society, and government is its machinery A modern government has three branches

(1) Legislative The legislative is the law-making branch It expresses the will of the state, and the laws that it makes serve as a vehicle to the sovereignty of the state

(2) Executive The executive executes law The laws made by the legislature are enforced by the executive branch

(3) Judicial The judiciary is the law-interpreting organ The judicial branch settles civil and criminal disputes, it tries persons who break the law, and punishes them according to the law It interprets the law and sees that the executive does not go beyond the powers conferred on it by the law In federal states, it interprets the constitution, and acts as its guardian

Significance of Legislature Among the three branches, the legislature is of the greatest significance *It formulates the will of* the state, and the laws that it makes constitute the concrete expression of the sovereignty of the state It provides a basis for the working of the executive and the judiciary Unless laws are made, the question of enforcing them or interpreting them does not arise *Hence the legislature occupies the first place among the three* organs of government

B Origin and Development of the Legislature

No Legislature in Ancient Times In ancient times, people did not treat the legislature as a separate branch of government Today, by legislature we mean a body of elected representatives of the people, whose main function is to deliberate, discuss, and make laws There was a time, when kings or officials authorised by the kings drafted laws At first, law was customary, and it took several centuries before the world came to know of law in the written form Even when law was written, there was no separate branch of government as such, which engaged itself in the special work of making laws Examples can be given of the people themselves forming primary assemblies, which exercised legislative power, but no legislature by any stretch of imagination was formed Even the Greeks did not succeed in establishing a body, whose function was *legislative as we understand it today* Montesquieu expressed his opinion that the ancient people did not conceive the idea of having a legislative assembly composed of the representatives of the people [1]

Origin of Legislature in Germany, England, Spain and France Garner points out that the seeds of the modern representative system can be found in the folk moots of the Teutons in Germany The early Teutons had assemblies composed of the leaders of the tribe

In Britain, the Witenagemot of the early days flowered in course of time into a parliament consisting of the representatives of the three estates nobles, clergy and commons Simon de Montfort in England summoned the representatives of the boroughs to sit in his Parliament in 1265, and Edward I in England called the Model Parliament in 1295 These were important landmarks in the history of Parliament in Britain

In Europe the growth of the legislature lacked continuity

The Spaniards were able to form a legislative assembly as testified by the Cortes of Castile and of Aragon in the twelfth century [2]

In France for the first time in 1302 representatives of the nobles, the churchmen and the townspeople met

The growth of great cities in the medieval period in European countries gave an impetus to the representative principle

1 See J W Garner *Political Science and Government* (1955) p 542
2 Ibid p 543

C Bicameralism

Preference of Bicameralism A legislature, which consists of two houses is called bicameral, and a legislature of one house only is called unicameral The unicameral system was popular for some time in the eighteenth century but the experience of various states and the opinion of a large number of eminent writers were in favour of the bicameral system Britain, France, the USA, Canada, Switzerland Australia Abyssinia, Afghanistan, Brazil, Belgium, Eire, Egypt, the USSR, Burma, Japan, Ceylon South Africa and other countries have the bicameral system H Finer observes "Legislatures are bicameral for two broad and different reasons as a part of federalism and as the result of a desire to check the popular principle in the constitution "[1]

When organising the two houses, a clear difference between the two regarding composition, duration and powers is maintained to see that the second chamber is not a mere duplication of the first

Merits The following are the merits of the bicameral system

1 *Check on Hasty Legislation* The upper house is set up to act as a useful and meaningful restraining power to slow down hasty legislation by the lower house In the bicameral system, the principle of checks and balances is applied It is claimed that the members of the upper house are superior to those of the lower in age and experience The former can exercise a healthy check on the haste passions and impulses of the lower house Comparatively speaking, the members of the upper house are conservative, and their term is longer than that of the members of the lower house The conservative outlook of the upper house is bound to act as a corrective on the radical outlook of the lower It is likely that bills are passed hastily in the lower house owing to the sway of passion and overenthusiasm to do much in a short time Many a time, overenthusiasm is the result of lack of experience

Bills passed by the lower house have got to go to the upper house This leads to an interval between the passing of the bill in the lower house and its entry into the upper The interval can be utilised by different individuals and groups in a country to express their ideas on the bill, particularly if it is highly controversial The delay in passing a bill enables public opinion to

1 *The Theory and Practice of Modern Government* (1961) p 399

crystallise itself In the second chambers of certain countries, much intelligence, sobriety, foresight and level-headedness are in evidence These come into bold relief in the course of discussion on bills hastily passed by the lower house

Owing to the attitude of the upper house, the intervening delay in passing a bill, the opportunities provided for public opinion to crystallise itself and the expression of studied and moderate views are factors which are favourable to healthy legislation in a country The members of the upper house relatively speaking have greater freedom of expression than those of the lower house, particularly if the membership is hereditary or nominated Party considerations and the party whip many a time prevent members of the lower house from speaking out their minds freely

2 *Against Tyranny of Majority* Modern democracy in concrete terms means rule by the majority The tyranny of the majority is a reality in countries having the parliamentary system The upper house can act intelligently and effectively to neutralise the tyranny Hasty and ill-conceived bills can be passed in the lower house on the strength of the brute majority The upper house can do much in drawing the attention of the country to the serious drawbacks of a bill While the so-called opinion of the lower house will be the opinion of the majority the opinion of the lower house modified by the upper may approximately reflect public opinion

3 *Representation of Different Interests* Bicameralism provides for the representation of different groups and interests viz minorities, and vocational and professional interests According to the Constitution (1950), the upper houses in India at the Centre and in the States can be given as good examples The executive can nominate individuals who do not intend to stand for elections, as members of the upper house *The President of India can nominate twelve* persons, who are distinguished in science, literature, art and social services as members of the Rajya Sabha

4 *Curbs Despotism of One House* The upper house curbs the despotism of the lower house Bryce is of the opinion that any assembly has the natural tendency to become tyrannical and corrupt, and this can be checked by the presence of another house J S Mill also mentions the dangerous tendency of despotic power concentrated in a single chamber A similar view has been put forward by Lord Acton, who believes that the upper house provides the necessary security of freedom

5 *To Relieve Pressure on Lower House* The upper house can increase the efficiency of the government by lightening the burden of the lower house The upper house eases the pressure of legis lative work on the lower house In modern time , the state has under taken various kinds of social welfare activities and from time to time, it is necessary to pass many new laws to meet the requirements of a dynamic society The lower house may have its hands full and therefore a second house is bound to be a welcome relief to it The work before the lower house in the advanced and developing states is very heavy Every bill cannot be fully and leisurely discussed, as the rules of procedure impose a time restriction Second chambers can conveniently give relief to the overburdened lower chambers

6 *Indispensable for Federations* A second chamber is highly advantageous for federal states The fear that the more prosperous and powerful units in a federation may dominate over and take unfair advantage of the weaker units is dispelled by establishing a second chamber, in which all units may be given adequate or equal repre sentation Each chamber in a federation is useful in its own way The lower house represents the interests of the nation as a whole, whereas the upper house represents the interests of the federated units *In the USA, each state irrespective of its size and population* sends two members to the Senate (the upper house) thus having equal representation

Defects Bicameralism suffers from certain defects These are the following

1 *Upper Chamber Unnecessary to Check Haste* The conduct of the lower houses in several countries shows that the upper chamber is not necessary to check hasty legislation The critics of bicame ralism point out that much of the criticism levelled against the single chamber is baseless Members of the hower house are reponsible persons, and it is unfair to them to state that all of them are swayed by passion and excitement, and that all bills are passed in haste The conduct of members in the lower houses of advanced, countries testifies in favour of the dignity and sobriety of the lower house Controversial bills are criticised in magazines and newspapers, and the various parties in a country also have opportunities to discuss them The public gets an opportunity to know the good and bad features of a controversial measure

2 *Divided Responsibility* The formation of two chambers stead of one divides the respon ibility of legislation Work ll

decidedly better, if a single chamber dedicates itself to the task of legislation and shoulders the entire responsibility In composition, tenure and powers, there is much difference between the two chambers The two chambers with a difference in outlook, one with a conservative outlook and the other with a progressive outlook, can hardly be expected to work with a spirit of harmony and cooperation The difference in their attitudes and sometimes antagonism between them will lead to much waste of time without achieving much Divided responsibility thus leads to a series of evils Even if one takes it for granted that the second chamber is made harmless, and is forced to cooperate or fall in line with the lower house, there is little that can be said in favour of the upper house Sieyes aptly said that "if the two assemblies agree, the second chamber is unnecessary, if they do not agree, it is obnoxious"

3 *A Chamber without Justification* In most of the states, the second chamber has continued to exist in a weak and crippled form It is unable to bite, as its teeth have been knocked out, and is incapable of doing harm to progressive legislation This itself is an adequate reason going against its continuation It is an unnecessary burden in a state, which desires to move *with the times* A chamber, which is powerless, and incapable of doing any useful service is a superfluous and costly luxury, whose abolition will do good to the state

4 *Second Chamber Reactionary and Anti-democratic* Generally members of an upper house are not elected directly by the people In England, membership of the House of Lords is hereditary Members with old and reactionary ideas cannot represent the interests of the people, as they cannot feel for the people or think in terms of people's welfare Such members can hardly do justice to the people, and their reactionary attitude in the upper house goes against all efforts to introduce liberal ideas and far-reaching reforms As any radical changes will go against the interests of the rich, the rich members of the upper house will try their best to check progressive legislation H Finer speaks of the concern of human beings to protect their own interests Indeed all second chambers have been instituted, and are maintained, not from disinterested love of mature deliberation, but because there is something their makers wished to defend against the rest of community especially inherited possessions and status"[1]

1 *The Theory and Practice of Modern Government* (1961) p 400

5 *Controversy about Upper House* The very fact that all writers are not prepared to accept bicameralism is itself a testimony against the *second chamber* *Had a second chamber been of real use*, there would be no reason to have a controversy

D Unicameralism

Rise of Unicameralism with Democracy In Europe, with the rise of democracy, opinion was in favour of a unicameral legislature The concept of popular sovereignty demanded the establishment of a single chamber consisting of members expressing the will of the people, and the hopes and aspirations of the nation J W Garner aptly points out 'Concerning the constitution and mode of recruitment of the lower chamber there is now substantial unanimity of opinion and of practice that it should rest upon a popular basis, that its members should be elected by direct, equal, secret, and what is commonly described as universal suffrage," and that the tenure of their mandates hould be of relatively short duration "'[1]

Countries like Greece, Bulgaria, Latvia, Esthonia, Yugoslavia, Portugal, Czechoslovakia and Finland, and some States in the Indian Union have a unicameral legislature According to Bentham, a second chamber is "needless, useless, worse than useless" Laski also expressed himself in favour of unicameralism Abbe Sieyes *stated* "Of what use a second chamber be ? If it agrees with the Representative House it will be superfluous, if it disagrees mischievous" Samuel Adams and Paine in America, Turgot and Condercet in France supported unicameralism Benjamin Franklin as a champion of the unicameral system said 'A legislative body divided into two branches is like a carriage drawn by one horse in front and one behind pulling in opposite directions"

Experience against Unicameralism Though theoretically a single chamber appeared better than a bicameral legislature, actual experience went against unicameralism Hence, countries which originally favoured a single chamber ultimately chose to have two chambers Unicameralism, unlike bicameralism could not strike deep roots C F Strong observes "Unicameral constitutionalism is a comparatively rare, and almost always temporary phenomenon in the history of great states, while bicameral constitutionalism is the method characteristic of all important states today "[2]

1 *Political Science and Government* (1955) p 569
2 *Modern Political Constitutions* (1958) p 186

Merits The following are the merits of unicameralism

(1) There is no duplication of work

(2) There is no hindrance to progressive legislation

(3) There is singleness of purpose in legislation

(4) Responsibility is undivided W F Willoughby observes "It (unicameral system) is simple Responsibility is definitely located It furnishes the means for a direct authoritative representation of the electorate The bicameral system in contrast with this, is complicated and expensive Responsibility is divided It leads to delay in action "[1] E B Schulz says "Finally the advocates of unicameral legislature contend that a single-chambered body is more effective as a deterrent to the growth of the power of the executive than a two-house legislature A strong unicameral assembly is a better counterbalance to the executive than a legislature composed of two comparatively weak chambers "[2]

Defects The following are the defects of the unicameral system

(1) Tyranny of a single chamber is possible, particularly when it is under the control of a party having an overwhelming majority in it

(2) Legislation may be radical and in the name of progressive ideas, thoughtless measures may be introduced

(3) There is no scope for exercising the necessary moderation and giving second thought to legislative measures

(4) The reckless way in which members of a single chamber may conduct themselves in making laws may pave the way to instability S Leacock observes 'A single legislative, house unchecked by the revising power of another chamber associated with it, proves itself rash and irresponsible, it is too much exposed to the influence of the moment, it is swayed by emotion, by passion, by influence of oratory, it is liable to a sudden access of extravagance or of retrenchment "[3]

Bicameralism Better than Unicameralism If the advantages and disadvantages of bicameralism and unicameralism are weighed, a case can be easily made out in favour of the former Several writers have strongly supported bicameralism Sir Henry Maine opines that any type of upper house is better than none Madison, Marriott, Bryce and Lecky have spoken in favour of the second

1 *The Government of Modern States* (1936) p 341

2 *Essentials of Government* (1961) p 368

3 *Elements of Political Science* (1933) p 153

chamber It is usually agreed that a well-constructed second chamber, with carefully limited powers, has a useful part to play in criticism and suggested amendment, based on the broader experience of its members and the greater stability of their position [1] Madison argued that a fence was necessary to guard them against 'transient impressions and 'fickleness and passion [2]

E Formation of Second Chambers

Hereditary Principle Nomination Direct and Indirect Election by Lower House There is no unanimity of opinion regarding the composition power and tenure of the upper chambers, and hence each state organises the upper chamber in its own way Second chambers are formed according to one or more of the following principles

(1) Hereditary Principle In Britain most of the members of the House of Lords are hereditary peers

(2) Nomination In Canada, the members of the Senate the Upper House are nominated A small number of members of the House of Lords is not hereditary They are appointed Lords Spiritual and Law Lords for life In India the President nominates twelve members of the Rajya Sabha, the upper house at the Centre

(3) Direct Election In the USA and Australia members of the Upper House are directly elected

(4) Indirect Election The Senate in the USA had indirectly elected members till 1913 In France, the Council of the Republic according to the Fourth Republican Constitution was indirectly elected In the Rajya Sabha in India out of 250 members, 238 are indirectly elected

(5) Election by Lower House In Norway, according to the principle of Lees Smith, the second chamber consists of members elected by the lower house

(6) Combination of Election and Nomination The principle of combining election and nomination has been advocated by Sidgwick Though the Rajya Sabha in India combines the two principles, only 12 are nominated out of a total of 250

F Examples of Second Chambers

1 The House of Lords in Britain

Product of Historical Evolution The House of Lords is the second chamber in Britain C F Strong says 'The true origin of the House of Lords is to be found in that body of chief barons and high church dignitaries that met the Norman kings in

1 R H Soltou *An Introduction to Politics* (1951) p 188

2 See H Finer *The Theory and Practice of Modern Government* (1961), p

council three times a year "[1] The bicameral system in Britain was not planned, it arose as the product of historical evolution In the beginning, in the Model Parliament (1295) of Edward I, representatives of the various classes were asked to meet together in one assembly But gradually owing to differences in rank and status, two groups were formed The great barons and the more important clergy met in one chamber The inferior clergy, who felt their position awkward stopped attending Parliament In another chamber, the representative knights and the representative townsmen met

Composition The House of Lords mostly consists of hereditary peers who number about 900[2] There are different types of peers

(1) *Princes of Royal Blood* These members rarely attend the House and never participate in its proceedings

(2) *Hereditary Peers and Peeresses* These form more than ninety per cent of the total membership The crown confers peerage on persons of great eminence in various fields

(3) *Peers Scotland*

(4) *Peers of Ireland* There are no Irish peers now

(5) Lords of *Appeal* These used to attend to the judicial functions of the House of Lords At present, nine Law Lords created for life by the Crown discharge the judicial work

(6) *Spiritual Peers* They are twentysix in number and are known as Lords Spiritual

(7) *Life Peers* In this category are included life peers and peeresses created by the Life Peerages Act, 1958, and those who have not given up their peerages according to the Peerage Act, 1963, which enables a hereditary peer to surrender his peerage to seek election to the House of Commons (Lord Home gave up his peerage As Sir Alec Douglas Home he succeeded Prime Minister Macmillan after the latter's resignation,)

Powers The following are the powers of the House of Lords

(1) to try peers,

(2) to sit as a court of appeal in civil and criminal cases,

(3) to hear cases of impeachment (this power has fallen into disuse), and

(4) to make law (Any bill except a money bill can be introduced in the House of Lords)

1 *Modern Political Constitutions* (1958) p 189

2 See G C Moodie *The Government of Great Britain* (1963) p 107

Now Only Revising and Delaying Body In the twentieth century, owing to the intransigence of the House of Lords, it lost its powers heavily, until it became almost a powerless body

The House of Lords rejected the budget for 1909, and broke a long-standing custom, which gave the House of Commons the first place By the Parliamentary Act of 1911, the House of Lords forfeited its power of dealing with money bills Even regarding ordinary bills, the position of the House of Lords was lowered

To further clip its powers, the Parliamentary Act of 1949 was passed The provocation to pass this Act, which deprived the House of Lords of the power of suspensive veto over non-money bills for two years was provided, when the Lords delayed the passage of important legislative proposals regarding nationalisation of certain industries

After the passage of the 1949 Act, it is "only a revising and delaying body, and not very effective even for that purpose"

The Cabinet in England is responsible only to the House of Commons and not to the House of Lords

Drawbacks The House of Lords is criticised on the following grounds

(1) *Hereditary and Anti-democratic* It is a hereditary house, and so is contrary to democratic principles

(2) *Not Representative* It does not represent the people, and does not stand for any progressive interests

(3) *Conservative* It is an aristocratic chamber, essentially, conservative and never in a mood to move with the current of the times

(4) *No Interest* Peers have very little interest in legislative work, and the attendance generally does not exceed 100

In spite of these serious drawbacks, which make it almost meaningless in a democracy, which has served as a model to other countries, it has not been abolished The Labour Party started vigorously advocating its abolition since 1937, but could not abolish it, though it formed government three times

The Bryce Report The consensus of opinion however is not to abolish it but to reconstitute it The All Party Conference of 1917 with Bryce as President submitted a unanimous report in favour of the continuation of a reconstituted House of Lords.

The Report stated

(a) the House of Lords does good work in examining and revising bills, after they are passed in the House of Commons,

(b) non-controversial bills can be introduced in the House of Lords to relieve the House of Commons of a part of its heavy work,

(c) there is an inter-position of delay, which facilitates the crystalization of the public opinion, and

(d) the House of Lords can discuss important questions like foreign policy, when the House of Commons is busy with other important questions

Merits The following are the merits of the House of Lords

(1) *Check on Hasty Legislation* The conservative House of Lords is able to exercise a healthy check on the House of Commons

(2) *Checks Despotism of a Single Chamber* In Britain, as the Constitution is unwritten, and there are no written safeguards, it is proper that the House of Lords is given deliberative and revisory powers to check the despotism of the House of Commons

(3) *High Level of Discussions* The House of Lords can boast of members who are highly talented and seasoned in various fields, and the high level of discussions found there can be witnessed in few chambers of the world

(4) *Conservatism* The House of Lords is conservative, whereas the House of Commons is progressive By nature the English people are also conservative, and they do not like to abolish long standing institutions

2 The Senate in the USA

Desire to Go Slow and Fear of Majority Rule In the USA the Senate is the second chamber The members of the Congress of Philadelphia (1787), who drafted the Constitution wanted to go slow, and they decided in favour of a bicameral system The fear of the majority rule also heavily weighed in their mind while taking a decision Finer points out "The convention was impelled towards the establishment of the Senate not only by the necessities of federalism, but by the practical and immediate fear of tumultous democracy, which in the few years since the end of English rule in 1776, had acted very intemperately"[1]

1 *The Theory and Practice of Modern Government* (1961) p 401

Composition In size, the Senate is about one-ninth of the House of Lords It has 100 members, and each of fifty States (the units of the American federation) sends two members Members are elected directly by the people for six years, one-third of the members retire once in two years Thus, the Senate is a continuing body Membership of the Senate carries enormous prestige The Vice-President of the United States is the President of the Senate

Most Powerful Second Chamber The following factors make the Senate the most powerful second chamber in the world

1 **Direct Election** The Senate is a thoroughly democratic body Members are directly elected, and they represent the people's interests quite unlike the members of the House of Lords in Britain and of the Rajya Sabha in India Its proceedings pertain to national interests and not to local interests as found in the House of Representatives, the lower house

2 **Great Freedom of Debate** The Senate is a very effective body, and can do much in getting things done or present real obstacles in the way of the President Senators can exercise great freedom of discussion under the rules of procedure

3 **Superior to House of Representatives** In talent, prestige, freedom of debate and other respects, the Senators are far superior to the members of the House of Representatives the lower house

4 **More Powers than Any Second Chamber** The Senate exercises wide powers, and acts as a real check on the powers of the President No President, however powerful he may be, can afford to ignore the Senate or treat it with scant respect No treaty made by the President is valid, unless it is ratified by the Senate Such power is not exercised by any second chamber in the world All appointments made by the President have to be ratified by the Senate In the field of foreign affairs, the Senate can wield very powerful influence

5 **Powers of Investigation** The Senate is armed with wide powers of investigation The administrative departments are forced to keep to the path of rectitude, as the Senate can mobili e public opinion for instituting an investigation of scandals and of cases of incompetence

6 **Coequal with Lower House in Financial and Powers** No second chamber in the world has powers coequal those of the lower chamber The Senate in the USA[enjoys

powers of legislation It is significant to note here that even in financial matters it has coequal powers Finer observes "For it has not only the power of legislation equal to that of the House (or Representatives) Its authority to amend financial legislation which by the constitution must commence in the House, has been construed by it to be a plenary power to remake the budget sent up to it By substituting for original proposals made by the House, it is as much master of the financial provision of the nation as the House And owing to its composition and operation, it is even more powerful"[1]

7 **Favourable Background** The constitution-makers at the Convention of Philadelphia (1787) desired to make the Senate something like the Privy Council in England This furnishes the background of the enormous executive, and other powers the Senate enjoys Without its cooperation, the President or the House of Representatives can do little

3 **The Senate in Canada**

Nominated Members The upper house in Canada is known as the Senate It consists of 102 members (the law allows a maximum of 110) who are nominated for life by the Governor-General on the recommendations of the Prime Minister These appointments are made on party lines Members are to be at least 30 years old

Very Weak Second Chamber The following factors explain the weakness of the Canadian Senate, which fares even worse than the British House of Lords

(1) *Nominated Members* The Senators are nominated, and hence it can never pretend to uphold the cause of democracy

(2) *People Unrepresented* The Senate represents itself and no other interests in the country Members are appointed on a party basis, Senatorship is a reward for "services" rendered by persons to government

(3) *Abdication of Power* According to the Constitution, the powers of the Senate are not subject to limitations, though money bills cannot originate in the Senate In the practical field, the Senate has given up its legislative and financial powers, though it enjoys concurrent powers with the House of Commons (of Canada), the lower house

(4) *No Interest* The Senators have little interest in legislative and other types of work, which members of legislature normally

1 Ibid., p 420

have It is curious to note that a debate may hardly take an hour, and a bill may be passed in a few minutes

(5) Unfavourable Background The makers of the constitution had in mind a weak chamber like the House of Lords, when they made provision for the Senate It is necessary to know the difference between the House of Lords and the Canadian Senate While in Britain the ministers (except the Prime Minister) can be members of either the House of Lords or of the House of Commons, in Canada ministers are not members of the Senate No powerful representative of Government sits in the Senate to lend power and prestige to it

Useful Work It is, however, wrong to run down the Senate completely, as it does some useful work The Senators are highly competent and talented people, and the adequate leisure that they can command enables them to make improvements on bills

4 The Senate in Australia

Composition and Tenure The upper house in Australia is known as the Senate It consists of sixty members, each of the six states sends ten members Members have to be at least twentyone years old They are elected by the people of each state for a period of six years, half retiring once in three years

Disappointing Weak Chamber The Senate is a weak chamber which disappointed the creators who expected much The weakness of the Australian Senate is owing to the following factors

(1) Neither a Revising Chamber nor a Guardian of Units The makers of the constitution desired to make the Senate a revising chamber and a guardian of the units in the federation The record of the Senate has not reached these expectations

(2) Ministry Responsible to the House of Representatives Though the Constitution has said nothing about the responsibility of the executive to the lower house, in actual practice and according to traditions, the ministers are responsible only to the lower house

(3) Weak in Financial Matters Though the Senate has equal powers with the House of Representatives, it is very weak in financial matters No money bill can originate in it It cannot amend a money bill or increase the amount demanded It can totally reject a money bill In practice, the Senate may not go to the length of rejection

5 The Council of the French Republic (Fourth Republic)

Composition In the Fourth Republic of France, according to the Act of 1948, the Council of the Republic, the upper house had 320 members elected indirectly by the members of an electoral college The tenure is of six years, one half retiring once in three years

The Weakest Second Chamber in the World The following factors reveal that the Council of the Republic constituted the weakest second chamber in the world

(1) Unfavourable Background The constitution-makers desired it to act as "a council of reflection" and not as "a council for action'

(2) Cannot Vote Laws The constitution says "The National Assembly alone shall vote laws It may not delegate this right" Practically speaking, the Council cannot introduce bills Any bill or resolution moved by a member was to be filed with its bureau to be passed on to the bureau of the lower house The Council has to rest satisfied with "presenting observations, formulating objections and offering advice"

6 The Council of States in Switzerland

Composition The Council of States is the upper house in Switzerland It consists of 44 members elected by Cantons As in the USA, each unit (Canton) is to elect two members, and every half Canton elects one Members representing certain Cantons are subject to recall

Not like the US Senate The makers of the Swiss Confederation desired the Council of States to have a position approximate to that of the Senate of the USA But this aim has not been realised

The following factors explain why the Swiss Council of States cannot be compared to the American Senate in its powers and importance

(1) Below Expectation The record of the Council of States has been far below expectation It has earned a bad name for its lethargy

(2) Lower House More Powerful The attention of the people is fixed on the National Council, the popular chamber and not on the Council of States

Not Powerless In spite of its drawbacks, it is not an important body, as it has equal constitutional, legislative and financial powers

with the lower house It can also afford to disagree with the lower house, and even stick to its stand

7 **The Council of States or the Rajya Sabha in India**

Composition and Tenure The Council of States, the upper house at the centre in India has 250 members 238 elected and 12 nominated by the President Eminent men and women distinguished in art, science, literature and social service are nominated The 238 members are elected by the State Assemblies according to the principle of proportional representation with the single transferable vote Thus the election is indirect The Council is a permanent body, and cannot be dissolved Members are elected for 6 years, one-third retiring once in two years

The Vice-President of India is the ex-officio Chairman of the Rajya Sabha

Utility of the Rajya Sabha The following factors indicate that the Rajya Sabha is not so powerful as the Senate in the USA, but at the same time it plays a significant role and its position is not so weak as that of the French Council of States or the Canadian Senate

(1) Considerable Legislative Power The Rajya Sabha has considerable legislative power It can initiate any bill except a money bill All bills require the approval of this chamber also Members can ask questions and supplementary questions and exercise control over the executive In financial affairs, it is inferior to the lower house, as money bills cannot originate in it

(2) Constitution Amending Power It shares the power with the Lok Sabha, the lower house to amend the constitution

(3) Role in Impeachment It has powers connected with the impeachment of the President

(4) Election of President Elected members of the Rajya Sabha are part of the electoral college formed for electing the President

(5) Resolution It can pass a resolution to the effect that a subject is of national importance and then Parliament becomes competent to pass laws on the subject even if it is on the State List

(6) Removal of Judges It has a share in the power to remove judges of the Supreme Court or a High Court

(7) Approval Necessary for Emergency Its consent is necessary to continue the state of emergency

Thus, the Rajya Sabha has great utility, and can justify existence

G Examples of Lower Houses

The following table gives a picture of some of the Lower Hou es

England House of Commons	Canada House of Commons	Australia House of Pepresen tatives	France (Fourth Re- public) National Assembly	USA House of Represen tatives	Switzerland National Council	India House of the People (Lok Sabha)
[illegible] s people	1 262 members elected by people	1 121 members elected by people	1 627 members elected by people 544 of France & 83 of overseas territories	1 435 members elected by people	1 1[illegible] members directly elected [illegible]	1 Max[illegible] number of members [illegible]
[illegible] ars [illegible]ge 21	2 Term : 5 years Age : 21	2 Term : 3 years Age : 21	2. Term 5 years Age : 23	2 Term 2 years Age : 25	1 Term 4 years Age 21	2. Term : 5 years Age : [illegible]

England House of Commons	Canada House of Commons	Australia House of Represen tatives	France (Fourth Re public) National Assembly	USA House of Represen tatives	Switzerland National Council	India House of the People (Lok Sabha)
3 Functions Legislative financial deliberative selective controls exe cutive which is responsible to it and not to the House of Lords (Has served as a model to other states)	3 Functions Legislative deliberative financial controls executive (Technically co-equal powers with the Senate but in practice is more power ful than the Senate which is very weak Mini sters responsible to this House)	3 Functions Legislative deliberative financial controls exe cutive (Technically both chambers have equal powers in legislation but not so in reality Executive responsible to lower house only)	3 Functions Legislative delibera ive financial administrative Council of Ministers solely respon ble to it.	3 Functions legislative prefers cases of impeach ment passes bills on sub jects on federal list financial pow ers appoints committees of investiga tion (Senate is strong and the lower house is weak. See above for powers of the Senate)	3 Most business like body in the world Functions executive legislative judicial and deliberative	3 Functions Legislative financial deliberative control of executive

H Relations between Two Chambers

Difference in Tenure, Qualifications and Powers The aims of both the chambers in a state are the same in the ultimate analysis, and so they have to co-operate with each other and set up healthy relationship In composition, tenure and powers the principles for both the houses should be different J W Garner points out "The members of one chamber ought to enjoy longer tenures They ought to represent a larger constituency, higher membership qualifications ought to be required of them, and they might well be chosen in a different manner and by a differently constituted electorate"[1]

As stated elsewhere, the upper house should check hasty legislation, but it should not try to exercise power not conferred on it by the constitution, and should not compete with the lower house

The upper house must not be a replica of the lower

At present, the possibility of upper chambers entering into a conflict with the lower is mostly ruled out, as the second chambers have been shorn of their powers, which they once enjoyed The upper house has to take it for granted that the lower house is a popular chamber destined to play a more important part than itself in a democratic state

In constituting the two chambers, the *following factors* must be remembered

(1) Different Structural Principle In structure, the two chamders must differ from each other, for if it is the same, it would be nothing but duplication of the lower house Regarding qualification, method of election and tenure of office, there should be difference

(2) Difference in Powers If both the chambers are armed with the same powers, deadlocks will be frequent The lower chamber must be armed with wider powers Particularly, in money matters, it should be given the upper hand

(3) Brakes of the Upper House The upper house must understand the significance of applying brakes at the right time, when the lower house goes too fast

(4) Must not be an Impediment The second chamber must not over-reach itself in discharging its duties and become an impediment to the lower house

1 *Political Science and Government* (1955) p 565

Decline in Powers of Upper Houses The march of time has witnessed the steady decline in the powers of the upper house in relation to the lower R H Soltou observes "Some second chambers enjoyed absolutely identical powers with the first, except in certain matters of finance This was the case with the French Senate, and with the House of Lords until 1911 But, with the growing pressure of democratic feeling, they have now nearly lost any right of absolute veto, all they can do is to hold up a measure for a limited period of time, or demand its reconsideration, in some cases they may get it submitted to a popular referendum They have also lost any power of forcing a change of cabinet"[1]

Settlement of Deadlocks In spite of the best efforts to avoid a conflict between two chambers, at times there is a possibility of deadlock Deadlocks are avoided by following the rules laid down in the constitution or by going according to certain conventions

(1) Upper houses almost powerless in financial matters (Britain) Generally the upper houses cannot assert themselves in financial matters, and give rise to a deadlock, as they cannot introduce money bills or have any real control over the purse

(2) Joint sessions (India) Joint sessions are held in certain states, to solve the deadlock between two chambers

(3) Power for lower houses to pass legislation (Britain) In some states, the deadlock is ended, as the lower house alone is competent to pass legislation according to a special procedure

(4) Special machinery (Conference Committee in the USA) In some states, there is a special machinery to bring about compromises between two chambers

MAIN POINTS

1 **Legislature** Law-making and deliberative organ No legislature in ancient times Origin in medieval period Growth with democracy

2 **Bicameralism** Merits—1 Check on hasty legislation 2 Against tyranny of the majority 3 Representation of different interests 4 Curbs despotism of one house 5 To relieve pressure on lower house 6 Indispensable for federations

Defects—1 Upper chamber unnecessary to check haste 2 Divided responsibility 3 Chamber without justification 4 Second chamber reactionary and antidemocratic 5 Controversy about upper house against it

1 An Introduction to Politics (1959) pp 187–88

3 Unicameralism Rise of unicameralism with democracy Experiment tried in some states Bicameralism more popular

Merits—1 No duplication 2 No check on progressive legislation. 3 Singleness of purpose 4 Undivided responsibility

Defects—1 Possibility of tyranny of single chamber 2 Hasty legislation. 3 No scope for moderation. 4 Instability

4 Formation of Second Chambers 1 Hereditary principle 2 Nomination 3 Direct election 4 Indirect election 5 Election by lower house. 6 Combination of election and nomination

5 Examples of Second Chambers (1) British House of Lords. Product of historical evolution Composition–Over 900 Princes of royal blood Hereditary Peers, Peers of Scotland Lords of Appeal Spiritual Peers and Life Peers Now almost powerless Only a revising and delaying body

Drawbacks—1 Hereditary and antidemocratic. 2 Not representative. 3 Conservative 4 No interest Bryce Report favoured continuation Despite its weakness plays useful role

(2) The Senate of the U S A 100 members Each state elects 2 members Most powerful second chamber in the world Reasons—1 Direct election of members 2 Great freedom of debate. 3 Superior to House of Representatives 4 Powers of investigation 5 Coequal with lower house in financial and legislative powers

(3) Canadian Senate 102 members Law allows 110 Nominated for life. Very weak second chamber People not represented Abdication of power Members not interested

(4) Senate of Australia Disappointing weak chamber Neither revising chamber nor guardian of units Ministry not responsible to it Weak in money matters

(5) Council of the Fourth French Republic Weakest second chamber in the world

(6) Council of States in Switzerland Not powerless

(7) Rajya Sabha in India Has some powers Not weak like the Canadian and French second chambers Significant role

6 Relations Between Two Chambers The two chambers do not compete with each other Upper house not so strong as the lower Decline in powers in recent years Methods devised to settle deadlocks

CHAPTER 49

POWERS AND FUNCTIONS OF THE LEGISLATURE

A Functions of the Legislature

Functions and Status Differ from State to State The functions and powers of the legislature differ from state to state

In a parliamentary democracy like Britain and India, the legislature has very wide powers and it is superior to the executive

In a presidential form of government as found in the USA, the powers of the legislature are co-extensive with those of the executive and the executive is not responsible to the legislature

In an autocracy or dictatorship, the powers of the legislature cannot be real, and it cannot act as a check on the powers of the ruler At the most, it is a consultative body W F Willoughby observes "In the first place the legislature is pre-eminently the organ made use of to complete the work of determining the character of government that shall be established and the manner in which governmental powers shall be exercised The legislature takes up this work where the electorate in the exercise of its constituent authority, leaves off"[1]

Privileges and Immunities Members of Parliament enjoy certain *privileges and immunities to enable them to discharge their* duties and responsibilities without fear or favour They can criticise the conduct, principles and policies of the executive and expose scandals if any There are members, who openly say that the executive is thoroughly incompetent and the sooner it goes out of office, the better it is Members are able to elicit vital information, which reveals the true nature of the administration "Nobody can be punished for what he says on the floor of the house Usually for 40 days before and 40 days after the legislative session, a member is given freedom from arrest in civil suits"[2]

The following are the functions of a legislature in a democratic form of government in modern times

1 *The Government of Modern States* (1936) p 312

2 E Asirvatham *Political Theory* (1957) p 371

1 *Legislative* The legislature formulates the will of the state In other words, the representatives of the people in the legislature give expression to the will of the people This will in concrete terms is law Law-making is the most important function of the legislature, and in modern times legislation is the most important source of law (See Chapter 17 on Law) A legislature repeals laws which are not required or are obsolete, amends laws to meet the requirements of the changing times, and also passes new laws Robert Rienow observes "Parliaments are to be sure, looked upon primarily as law factories—as places where the raw material of public opinion is converted into statutes resolutions, and public policy"[1]

Gettell speaks of the three systems of formulating legislation "(1) A very strong ruler like the Czar of Russia may impose his will on the legislature (2) A legislature as in Britain may be supreme in law-making (3) There may be a balancing of authority between the houses and between the legislature and the executive Political parties may be instrumental in formulating legislation"[2]

2 *Deliberative* Another function of the legislature is deliberative Law-making and deliberation go hand in hand Members of the legislature discuss bills fully before they become laws At present, law is not the will of one man or of a few men, but the will of all, as expressed through the elected representatives Members have full freedom of expression, and this enables them to speak out their minds fully on a bill The legislature reflects different shades of opinion Law is not the expression of tyranny or the arbitrary will of a single individual, but the expression of the people's will through their representatives (The procedure of passing bills is given later in this chapter)

3 *Financial Control* The legislature exercises financial control A democratic government cannot raise or spend money without the consent of the representatives of the people Questions of finance are freely discussed by members of the legislature Government can act in the financial sphere only with the approval of the legislature The legislature holds the purse-strings In countries like Britain the legislature won the "war" against kings, who arbitrarily collected taxes, and spent public money The executive has to receive grants according to the consent of the legislature

1 *Introduction to Government* (1960) p 383
2 *Political Science* (1956) p 328

The abolition of old taxes and the collection of new ones and the expenditure of public money are questions fully discussed by the legislature The budget in a democratic country is placed before the legislature (Money bills are discussed later in this chapter)

Regarding Parliament at work in finance in Britain, Ogg and Zink point out 'Four main things it therefore falls to Parliament to do (1) to determine invariably on lines recommended by the treasury—the sources from which, and the conditions under which, the national revenues shall be raised (2) to grant the money estimated by the treasury to be necessary to carry on the regular work and newer enterprises of the government and to appropriate these grants to particular ends, (3) to inquire into and criticise the ways in which the funds are actually spent and (4) to see that the accounts of the spending authorities are examined and properly audited"[1]

Select Committees For the sake of convenience and for doing the work efficiently, select committees are set up In Britain, there are four Select Committees of the House of Commons to scrutinise and control the Select Committee of Public Accounts, the Select Committee on National Expenditure the Select Committee on Estimates, and the Select Committee on Statutory instruments "There have been proposals from time to time that the House of Commons should be given an opportunity through the use of committees to exercise some sort of control over what Whitehall does"[2]

In the realm of financial control countries like Britain and the USA gave significant principles, which have inspired other democracies viz no taxation without representation and grievances before supplies In the USA, the President has to take the approval of the Congress before declaring war but in Britain though the executive can declare war without the consent of parliament, the executive will be helpless, if parliament does not approve war expenditure This explains that in England in the ultimate analysis, if the executive is not sure of parliament voting grants for war, it dare not declare war without the approval of parliament

Need of Audit

We have observed above that in a democracy taxes cannot be raised without legislative sanction, and that public money has

1 *Modern Foreign Governments* (1957) p 279
2 K C. Wheare *Government by Committee* (1955) p 205

to be spent for the purposes for which it has been granted To ensure that this is done, there is a machinery for auditing accounts of the government

In India, the Constitution (1950) has provided for the appointment of the Comptroller and Auditor General by the President of India The Comptroller and Auditor General sees that

(1) the money is spent according to the sanctions of the Union or State legislatures,

(2) the expenditure does not exceed the limitations, and grants are not changed, but are in keeping with the Appropriation Act,

(3) the accounts of the Union and State Governments are audited,

(4) the annual financial statements are prepared and

(5) the reports relating to the accounts of the Union are submitted to the President, who shall cause them to be laid before each House of Parliament Reports relating to the account of a State are submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State

4 *Administrative Control* The legislature exercises administrative control The executive in a democracy cannot act arbitrarily, but it has to function according to the wishes of the legislature The legislature exercises a healthy and effective control over the executive This is particularly so in a parliamentary democracy, in which the real executive can remain in power only as long as it enjoys the confidence of the legislature A parliamentary executive is subordinate and responsible to the legislature and it has to quit office if the legislature has lost confidence in it On the floor of the house, members ask questions, interpellations and motions of adjournment The executive has to explain and justify all its policies domestic and foreign

Even in the presidential system as in the USA, the will of the legislature has to be respected The Senate in the USA having wide powers, exercises a real check on the President Appointments made by the President are subject to the approval of the Senate and treaties have to be ratified by the Senate The position of the executive becomes most unenviable, when its policies are exposed, scandals brought to light, and incompetence proved to the hilt Even the most arrogant executive in a democracy is brought round by the legislature, its discomfiture is great, when it is subjected to the fire of parlimentary criticism R H Soltou

observes "In both cabinet and presidential systems, however, parliament is ultimately supreme and has its way in every department of state activity, and this supremacy of Parliament shows the fallacy of what used to be an axiom of political science, the theory of the separation of powers"[1] Though the president is an independently elected executive his government can be subjected to close scrutiny by the legislature Administrative control "works through the detailed legislative control of finance and administration and thorough investigation carried out by legislative committees"

5 *Judicial* In the bicameral system, the upper house is given judicial functions In Britain the House of Lords functions as the highest court of appeal In the USA, the Senate becomes a court, when the President or the Vice-President is impeached In India, either the Lok Sabha or the Rajya Sabha can bring charges against the President for impeachment When the Lok Sabha frames the charges, the Rajya Sabha investigates them and when the latter prefers charges, the former investigates them

6 *Miscellaneous* The legislature has the following miscellaneous types of functions also

(a) *Inquiries* The legislature is competent to conduct various types of inquiries Commissions or committees can be appointed to study various political social and economic problems

(b) *Election of Top Executive or of Judges* In the USA, once in four years, the two houses of the Congress meet to count the votes given to the President and the Vice-President When no candidate in a Presidential election secures a majority of votes, the House of Representatives does the job of electing a President from the three candidates scoring the highest votes here each state has one vote In the case of the election of the Vice-President, when no candidate gets a majority of votes, the Senate selects the two candidates securing the highest votes In India, the elected members of the Lok Sabha and the Rajya Sabha have a share in electing the President as they form part of the electoral college to elect the President In Switzerland the judges of the Federal Tribunal are elected by the Federal Assembly

(c) *Removal of Judges* In Britain the House of Commons and the House of Lords make a joint address to the Crown for the removal of judges In the USA, judges are impeached In India,

1 *An Introduction to Politics* (1959) p 190

2 *Private Bills* These embrace a small area or pertain to an individual or a few individuals They are "bills for the particular interest or the benefit of any person or persons" "The object may be to grant a pension or privilege to an individual, or it may be to empower a municipality or private corporation to undertake some enterprise which by its nature involves limitation upon or interference with public or private (usually property) rights"[1] Bills are carefully prepared in Britain Rienow observes "After scrutiny by the departments concerned and a survey of the plan of a new proposal by the cabinet, the measure is given to the parliamentary counsel of the Treasury to draft There it is combed for error and reconditioned for perfection of language These facilities are not available to the private member of the House of Commons" In Britain a bill other than a money bill can be introduced either in the House of Lords or the House of Commons

Three Readings In Britain every Bill has to pass through three readings

(a) First Reading A member of the House of Commons, who desires to introduce a bill has to give notice of the pending legislation. At the call of the speaker, the member presents his bill at the clerk's table When the clerk loudly reads the title of the bill, the first reading is over The full text of the bill is printed

(b) Second Reading On a fixed day the second reading takes place At this stage, only the broad principles of the bill are taken up and discussed, and details are avoided After the discussion, the motion is put to vote Generally a government bill is carried, but a private member s bill has very lean chances

(c) Committee Stage The bill is then referred either to one of the Standing Committees of the House or on the decision of the Whole House to the Committee of the Whole House Money bills are referred to the Committee of the Whole House When the Whole House forms a Committee, it is presided over by the Chairman of Ways and Means or his Deputy and not by the Speaker A bill is sometimes referred to a Select Committee, whose report is forwarded to a Standing Committee or to the Committee of the Whole House

1 Ogg and Zink *Modern Foreign Governments* (1957) p 275
2. *Introduction to Governments* (1860) p 407

the judges of the High Court and of the Supreme Court can be removed, when a resolution to that effect is passed by two-thirds majority in each house

(d) Amending Constitution Two-thirds of the Congress or a national convention called by the Congress at the request of the legislatures of two-thirds of states in the USA can propose to amend the constitution In Britain, the constitutional law and the ordinary law are on par, and Parliament itself can amend the constitution in the same way in which an ordinary law is amended In India, either house of Parliament can make a proposal for amending the constitution, this must be passed by each house by a majority of its total membership and by a two-thirds majority of the members present and voting

(e) Ventilation of Grievances Parliament is regarded as 'the nation's Committee of Grievances and its Congress of Opinions Grievances can be ventilated in the House The legislature is an organ for expressing public opinion on governmental and administrative matters Its members may have connections with various interested groups whose grievances can be voiced in the legislature. M Stewart points out "Apart from rare Secret Sessions, usually in war-time, the whole of Parliament's work is conducted in public As each topic comes before Parliament, and as each bill proceeds through its various stages, public opinion expresses itself through press and radio, through political parties, through letters and visits to M P s both from individuals and from professional, industrial and other organisations, whose interests are affected by particular proposals "[2]

B Legislative Procedure

1 England

Types of Bills A proposal for legislation is known as bill In England, there are two types of bills Public Bills and Private Bills

I *Public Bills* These embrace matters of general concern viz question of nationalising industry Public bills can be divided into two categories

(a) Government Bills These bills are proposed by ministerial Members of Parliament

(b) Private Members' Bills These are proposed by non-ministerial Members of Parliament, that is, they come from members, who are not in the government

1 J A. Corry *Democratic Government and Politics* (1958) p 178
2 *Modern Forms of Government* (1958) p 33

2 *Private Bills* These embrace a small area or pertain to an individual or a few individuals They are " bills for the particular interest or the benefit of any person or persons " " The object may be to grant a pension or privilege to an individual, or it may be to empower a municipality or private corporation to undertake some enterprise which by its nature involves limitation upon or interference with public or private (usually property) rights "[1] Bills are carefully prepared in Britain Rienow observes " After scrutiny by the departments concerned and a survey of the plan of a new proposal by the cabinet, the measure is given to the parliamentary counsel of the Treasury to draft There it is combed for error and reconditioned for perfection of language These facilities are not available to the private member of the House of Commons "[2] In Britain a bill other than a money bill can be introduced either in the House of Lords or the House of Commons

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(c) *Committee Stage* The bill is then referred either to one of the Standing Committees of the House or on the decision of the Whole House to the Committee of the Whole House Money bills are referred to the Committee of the Whole House When the Whole House forms a Committee, it is presided over by the Chairman of Ways and Means or his Deputy and not by the Speaker A bill is sometimes referred to a Select Committee, whose report is forwarded to a Standing Committee or to the Committee of the Whole House.

1 Ogg and Zink *Modern Foreign Governments* (1957) p 275
2 *Introduction to Governments* (1860) p 407

The Committee Stage is of great importance, as the details of the bill are considered and amendments moved

(d) Third Reading The third reading follows the report stage. As this stage discussion takes place and it is put to vote. A government bill is invariably passed, when the executive has the support of the majority The defeat of a government bill means a want of confidence in government The bill which is passed in the House of Commons goes to the House of Lords where also there are three readings. Money bills have to originate in the House of Commons. After the bill is passed by the House of Lords it goes to the King for his assent At present royal assent is a mere formality

Money Bills in Britain Money bills have to originate only in the House of Commons and every bill pertaining to public revenue must come from the Crown, that is the Cabinet All money bills have to be certified as such by the Speaker of the House of Commons No private member can introduce a money bill The executive prepares its estimate in supply services requiring parliamentary sanction every year Yearly sanction for expenditure on Consolidated Fund Service is not required as they are sanctioned by Permanent Acts Every money bill is in the form of an estimate

All proposals for new taxation are given in the finance bill. The demand for supplies is made by the Crown In his budget speech, the Chancellor of the Exchequer makes all the demands, which are discussed either by the Committee of Supply or the Committee of Ways and Means Both these are Committees of the Whole House The Committee of Supply decides the question of granting various amounts to the Crown and the Committee of Ways and Means settles the question of the sources of the required grants It is significant to note that no private member can increase a demand

All finance bills have to pass through the various stages as in the case of ordinary bills A money bill passed by the House of Commons goes to the House of Lords The Parliament Act of 1911 deprived the House of Lords of any financial control If the upper house fails to pass the finance bill in a month after it is sent to it, it is presented to the King for his assent after securing which it becomes an Act

2 The USA

Sources of Bills The USA has the presidential system While in Britain most of the bills are introduced in Parliament by ministers, in the USA, the President and his Cabinet are excluded from legislative work Therefore one cannot speak of government bills in the USA

Bills in the USA come from the following four general sources

(1) Individual Congressmen,

(2) Government or Administration,

(3) Interested groups like bar associations, chambers of commerce, labour unions and manufacturers' associations (though the bill may be submitted by a member), and

(4) Committees of the Congress, which "can combine bills, revise them beyond recognition or actually prepare new ones"[1]

Any member can introduce a bill in the USA Congress Many of the bills are generally not passed Money bills are intro duced only in the House of Representatives (lower house), while other bills can be introduced in either house Non-money bills are of two types

(1) Public, which are of general application, and

(2) Private, which are applicable to particular persons or subjects

Procedure In spite of the basic difference between the parlia mentary type and the presidential type, the rules of procedure in the USA are more or less like those in Britain Bills in the USA pass through different stages

Introduction A copy of the bill is dropped by one who introduces it into a hopper (box) on the Secretary's desk in the House of Representatives, and in the case of the Senate into the box on the clerk's desk

Committees All bills are printed, and are referred to the proper standing committees, which examine bills in detail The fate of a bill depends upon the attitude of the committee concerned Many bills are killed by the committee and may not be reported to the relevant house at all Rienow points out The unique feature of American legislative practice is the reliance put by both houses of Congress upon the recommendations of their committees All

1 R. Rienow *Introduction to Government* (1960) p 406

legislation is referred to these committees They have an almost unrestricted power to choose what bills they will consider Some they pigeonhole and forget "[1] With the help of a majority vote in the House of Representatives, the sponsor of a bill can compel a committee to discharge the bill in a month after the bill falls into a committee's hands But forcing a committee in this manner is difficult, as the majority vote cannot be easily secured

Three Calendars A bill which is fortunate to be reported to the House by a committee is put on one of three lists called calendars

(1) Union Calendar,

(2) House Calendar, and

(3) Private Calendar

The Union Calendar has bills, which are favourably reported These include "bills raising revenues, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property'

The House Calendar has public bills, which do not come under the first type

The Private Calendar has all non-public bills

Three Readings There are different ways by which certain bills can move forward speedily from their respective places in the calendars All bills taken up by the House of Representatives have three readings

(1) First Reading When the bill is printed in the Congressional Record and the Journal, it means that the first reading is over

(2) Second Reading At this stage, the bill is fully considered and amendments are discussed

(3) Third Reading This is a formality of reading the title of the bill and voting

When it is passed, the bill is signed by the Speaker and sent to the Senate If the bill is passed by the Senate, it is sent to the President

In the Senate, the bill passes through three readings as in the lower house It must be remembered here that Senators have greater freedom of discussion than the members of the House of Representatives The procedure in the Senate is almost free from closure, and members can make use of filibuster

1 Ibid p 411

C Sovereign and Non-Sovereign Bodies

Parliament a Sovereign Body A V Dicey in his *Introduction to the Study of the Laws of the Constitution (1962)*[1] clearly explains the features of sovereign and non-sovereign bodies The British Parliament is a sovereign body as (1) Parliament can change all laws, (2) there is no difference between constitutional law and ordinary law

Authority and Fundamental Laws over Non-Sovereign Bodies Non-sovereign bodies have to work within the framework provided by the law of the Sovereign legislature They have to function in subordination to the legislature and should not antagonise the superior authority Dicey outlines the principles governing non-sovereign bodies (1) "The existence of laws affecting its constitution which such body must obey and cannot change, (2) "the formation of a marked distinction between ordinary laws and fundamental laws' and (3) 'the existence of some person or persons judicial or otherwise having authority to pronounce upon the validity or constitutionality of laws passed by such law-making body'

Dicey gives corporations and railway companies in Britain as examples of non-sovereign law-making bodies An English railway company has to act according to the Act of Parliament creating it The rules of the company cannot come into conflict with any Act of Parliament The Legislative Councils of British India and the Assemblies of the English Colonies are other examples of non-sovereign bodies Under British rule in India no legislature whether central or provincial could go against the British Parliament, which was a sovereign body

Though writers like Jennings criticise Dicey s opinion, the difference drawn by Dicey is of importance for it enables us to distinguish between a sovereign law-making body and a non-sovereign law-making body For instance, the Life Insurance Corporation of India can make by-laws and rules for its proper functioning, but none of these rules can go against the Parliament of India A public corporation is created by a special statute of government or by an ordinance Municipalities and universities in India enjoy wide autonomy within their respective spheres but they cannot function in any way, which goes against the legislature

1 See pp 19-137

D Decline of Legislatures in Modern Times

Several factors in recent years have led to a decline in the powers and prestige of legislatures all over the world

(1) The acceptance of the concept of the welfare state has increased the functions of the executive at the expense of the legislature

(2) Everywhere in the world, legislatures have too heavy burdens of legislation, and they are forced to pass broad frame works of laws, leaving it to the executive to draw up detailed rules Thus legislative power is delegated to the executive, and this has led to the decline of legislature

(3) In modern times, planning has to be done on a large scale involving huge funds The legislature is forced to give more powers to the executive to draft plans and implement them

(4) In parliamentary systems the executive enjoying the full support of the legislature can afford to act in a dictatorial manner It is also able to introduce bills favourable to it

MAIN POINTS

1 **Functions of Legislature** Differ from state to state Privilege and immunities of members Functions—1 Legislative 2 Deliberative 3 Financial control 4 Administrative control 5 Judicial 6 Miscellaneous

2 **Legislative Procedure** 1 England Two types of bills-Public Bills and Private Bills (Public bills of two types Government-sponsored and Individual-sponsored Three readings of bills Government bills generally passed Money bills orginate in lower house House of Lords powerless in money matters

2 USA Four sources of bills—(1) Individual Congressmen (2) Government (3) Interested groups. (4) Committees of Congress Introduction of bill in box Committee recommendations Three calendars—Union House and Private Three readings of bills

3 **Sovereign and Non Sovereign Bodies** Parliament sovereign Can change laws No difference between constitutional law and ordinary law Non-Sovereign bodies like corporations railways and universities work within the frame-work of laws made by the sovereign legislature

4 **Decline of Legislatures** Planning on a large scale delegated legislation etc have weakened legistatures

CHAPTER 50

DIRECT LEGISLATION AND DELEGATED LEGISLATION

A Methods of Direct Legislation

Possibility of Ignoring People In modern democracies, which are indirect or respresentative, there is the possibility of ignoring the people The actual working of democracies shows that it may not be possible for the people to give expression to their views through their representatives, as the latter may have very little freedom to act as they like under the pressure of political parties The frequent use of the party whip in the legislature reduces the member to a helpless tool of the party The so-called representatives may not represent the views or uphold the interests of the people, and the people may therefore feel badly neglected The party system has come to stay, and this reality cannot be ignored Direct legislation as the ancient Greeks had is not possible in modern states As people cannot attend the legislature, the possibility of people themselves making laws has to be entirely ruled out

Aims of Methods of Direct Legislation Certain methods the Referendum, the Initiative, the Plebiscite and the Recall have been devised to know the mind of the people on important issues These are called methods of direct legislation C F Strong calls them Direct Democratic Checks, and says that these "are designed to give to the voting mass of the people a direct control of their political destiny by granting them the power to approve or reject measures for their well-being, to institute legislation, and to remove unsatisfactory representatives "[1] These methods have become necessary, as legislatures cannot be fully trusted

In Switzerland, and some of the States in the USA, the methods of direct legislation have met with some measure of success Strong says "In the United States the referendum is not used for any purpose in federal matters, but in some of the

1 *Modern Political Constitutions* (1958) p 281

individual states legislative abuses have become so glaring and widespread that the referendum, as well as the popular initiative and recall have been adopted in recent years in an endeavour to counteract those evils "[1]

Political parties have been blamed for making a mockery of representative democracy J A Corry observes ' Dissatisfaction with representative institutions led to still another proposal for making democracy more democratic initiative and referendum The diagnosis behind this proposal made the political parties the villains of the piece, attributing the ills of democracy to the fact that parties got between the electorate and the legislature The legislators forgot their pledges, enacted bad or failed to enact good legislation because the parties that dominate the legislature serve interests other than those of the people "[2]

In Switzerland a small country with a peace-loving and highly educated and enlightened electorate, direct legislation has done well

The aims of direct legislation and democratic checks are

(1) to enable people to accept or reject laws,

(2) to give them opportunities to propose legislation

(3) to check hasty legislation,

(4) to neutralise the tyranny of the party system in the legislature,

(5) to seek the verdict of the people on important political matters, and

(6) to recall tyrannical corrupt and incompetent officials

1 The Referendum

People's Verdict on Proposed Law or Constitutional Amendment Referendum means 'must be referred' This is a method by which a law or constitutional amendment proposed by the legislature is put to vote If the people vote against the proposal, it has to be given up but if the people approve of it, by the requisite majority, it falls into the statute book Referendum puts the weapon of veto against legisl- into the hands of the electorate

Referendum is (or Facultative) and Obligatory (or C

(1) Optional 1 number of people p

1 Ibid p 2

2 *Democr*

legislature must be referred to the people's verdict If the people vote for the law, it stands, and if they vote against it the law falls

In Switzerland, for ordinary law 30 000 citizens or the legislatures of eight cantons must make a petition for optional referendum

(2) *Obligatory* Referendum is obligatory or compulsory, if a certain type of laws has to be compulsorily referred to the people

All constitutional amendments in Australia and Switzerland are to be referred to people's verdict There are in Switzerland certain cantons in which even ordinary laws have to be compulsorily referred to the people

Merits The following are the merits of Referendum

1 **Expression of People's Will** On a legislative measure or amendment to the constitution, people secure an opportunity to express their will directly Representatives working under party pressure may not have the freedom to vote as they please in the legislature, and injustice may be done to the people Referendum enables the people to uphold their sovereignty Moreover, the drawbacks in the method of legislation can be neutralised

2 **People's Verdict on Legislature** Referendum enables people to pass a verdict on the legislature The verdict of the people on a law passed by the measure is also a verdict on the legislature itself If a law passed by the legislature is rejected by the people, it means that the legislature is passing laws which the people do not want The legislature, which gets a favourable verdict of the people, can know that largely it mirrors the views of the people

3 **Safeguard against Political Parties** Referendum provides the people with a shield against political parties Strong political parties asserting themselves in the legislature support measures favourable to them, though they may be bad to the larger interests of the people Referendum enables people to undo the mischief of such political parties

4 **Antidote against Tyranny of the Majority** We have seen how sometimes democracy leads to a tyranny of the majority party Political parties managing to annex majority of seats in the legislature may impose their tyranny Referendum is an excellent antidote against such tyranny, which is found in almost all democracies

5 Renewing Contact between People and Legislature There may not be a living contact between the representatives and the people some time after the general elections. But referendum enables people to revive the contact between themselves and the legislature. Form time to time, the contact between the people is re-established. When there is no referendum the possibilities of an intimate contact between the legislature and the people become more and more remote. Candidates, who seek the favour of people's votes on the eve of elections may forget the electorate altogether after their success at the polls.

6 Educative Value Referendum is a good instrument to keep the minds of the people alert and vigilant. People are compelled to think seriously on the various issues before them when called upon to give their verdict, and this has great educative value. Referendum stimulates the interest of the people in public activities makes them more energetic vigilant and patriotic, and enables them to cultivate a sense of responsibility and self-confidence.

7 Solving Dead-lock between Houses When there is a dead-lock between the upper house and the lower house regarding a certain measure, the people's verdict can clinch the issue.

8 Greater Obedience to Laws Referendum makes the task of enforcing laws easy. Laws which are approved by the people can command greater obedience than other laws.

9 Democracy Meaningful Referendum gives people opportunities to have their say regarding legislative matters and democracy becomes meaningful to them.

10 Protects Interests of Minorities Referendum protects interests of minorities and inspires confidence in them. Minorities will not remain neglected, and they can make their conspicuous presence felt when referenda are held.

Defects The following are the defects of referendum.

1 Poor Contribution Referendum in actual practice however does not warrant much praise, and its real contribution as an effective weapon has not been much. Except perhaps in Switzerland, there is little that can be said in favour of it. Sir Henry Maine criticised it strongly. Laski is of the opinion that it has not contributed much. Finer also does not see much good in it.

2 People Incompetent There are very few people, who are qualified to give their verdict on a proposed legislative measure

Law, if it is to be in the best interests of the people, has to be made by people, who have adequate knowledge of it, and who can calmly judge of the possible long-range effects of legislation The masses of people are not competent to judge law In improper hands, referendum may appear very crude, and as a double-edged weapon it may do more harm than good when not wielded properly

3 **People s Indifference** Large number of people are not nterested in political, constitutional and legal matters, and they may be in no mood to give their verdict Ignorance and apathy may be partly responsible for this The number of people, who vote at referenda is often discouraging While many people eagerly turn up to register a negative verdict, few are inclined to give a positive support to a proposed measure Finer points out that actual voting in direct legislation both in Switzerland and the USA is below expectations " the percentage of voters is small, the average being barely 50 per cent, this rising as much as 73 per cent, and 80 per cent in issues which stir the moral conventions or the property in tinct, and falling, though rarely, to 20 per cent and lower where important but technical issues relating to administration are involved "[1]

4 **Degradation of Legislature** Whatever may be the verdict of the people, referendum degrades a legislature in the eyes of the people, and demoralises it If people vote against a certain measure, the legislature is criticised as anti-people, and if the people are for it, the credit is not given to the legislature, but is claimed by the people The members of the legislature do not take adequate interest in their work, when they get blame, and their prestige is undermined

5 **Expense, Disgust and Delay** The advantages of referendum may be neutralised by the great expenditure needed for it, the disgust or aversion of the people and delay Repeated referenda in a country prove to be expensive, and they also entail much delay in passing the much needed legislation People may also feel tired and sick of them C F Strong observes "As to the referendum, if generally adopted in a large state, it would probably cause such delay in the promulgation of laws as might deprive society of the benefits they were designed to bestow, or permit the perpetuation of the evils they were intended to remove "[2]

1 *The Theory and Practi e of Modern Government* (1961) p 563
2 *Modern Political Constitutions* (1958) p 287

6 **Obedience to Law Reluctant** When it is known that a certain law has been supported by a narrow majority, the large minority which was against the law may be very reluctant to obey it. When a law gets support only by a very narrow majority, the people may develop an unpleasant complex while obeying the relevant law. But people in states having no direct methods of legislation obey all laws without developing such a complex.

7 **Continuation of Party Evils** The evils of the party system continue. Referenda give great opportunities to parties to conduct their propaganda to win the support of the people. Finer, a critic of the methods of direct legislation says that the referendum gave to the discontented parties the chances of agitation, not for something just, but out of malice, spite and revenge for having suffered losses at the preceding elections and for their exclusion from the cabinet.[1]

8 **People's Mere Yes or No** People, who have little knowledge of the complicated issues before them give a green signal to a proposed legislation by their Yes or may reject the measure by their No. Many may not vote at all. Making laws is something more than giving an affirmative or negative opinion, and much harm may be done to the state by the people's ignorance.

2 **The Initiative**

Initiative of People in Legislation The referendum enables the people to give their verdict on measures referred to them, but it does not enable people to make their own proposals for legislation. Therefore another method of direct legislation is laid down: it is the initiative. The initiative is the method by which the people can take the initiative to propose legislation.

There are two types of initiative

(1) Formulative Initiative

(2) Initiative in General Terms

In the first case the proposal for legislation is put in the form of a properly drafted bill. In the second case, the proposal is put in general terms.

The initiative should not be regarded as petitioning. A petition for making a certain law may be made to the legislature but the legislature is not bound to act as requested in the petition. On the other hand, in the case of the initiative, the legislature has to act, even if the people go against it. In Switzerland, in the case of

1 *The Theory and Practice of Modern Government* (1961) p 567

the centre, there can be initiative for constitutional law only, but in the case of the cantons there can be initiative for constitutional as well as ordinary laws In the USA, the initiative is available in nineteen states for ordinary law, and in fourteen states for constitutional amendment

Merits The following are the advantages of initiative

(a) Positive Right of Making Law The referendum does not enable people to make the laws they want, for it only confers on them the right of accepting or rejecting the laws already made But the initiative gives people the positive right of making laws

(b) Law Expression of People's Will Through the initiative, the electorate gives expression to its will directly This is never possible, when representatives make laws Laws initiated by the people give them a sense of self-satisfaction, and there is a greater chance of securing obedience to law

Defects The defects of the initiative, which are more or less the same as those for the referendum are the following

(a) Degradation of the Legislature As in the case of the referendum, here too, the legislator is degraded, as responsibility is taken away from him

(b) Laws Badly Made Laws initiated by the people are bound to be made badly and worded improperly The people should not be entrusted with the complicated and technically difficult task of framing laws C F Strong says that "the initiative gives opportunities to unscrupulous leaders or corrupt factions to do great harm to the state by playing upon the ignorance and irresponsibility of the crowd"[1]

(c) Below Expectations The expectation that the initiative is likely to make people propose very good laws has not been reached as evident from the record of the initiative in Switzerland People may propose bad laws, and may also succeed in putting them on the statute book with the help of the initiative E B Schulz says "Governmental problems are too complex to be settled satisfactorily by an election in which individuals must vote '*yes*' or '*no*' on a proposition presented in final form with no opportunity to suggest changes in a proposal that may be satisfactory in some respects and unsatisfactory in others The individual voter is faced with a 'take it' or 'leave it' alternative"[2]

1 *Modern Political Constitutions* (1958) p 287

2 *Essentials of Government* (1961) p 395

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1 *Modern Political Constitutions* (1958) p 287
2 *Essentials of Government* (1961) p 395

Not Advisable to Extend Direct Methods of Legislation

Though the Swiss people can proudly proclaim that the direct methods of legislation have succeeded in their country, it is not advisable to extend the methods to countries which do not have them at present "The general opinion of competent observers is that direct democracy has been a notable success in Switzerland In the USA political parties have been responsible for a lot of corruption and manouevring and instances of signatures being purchased or forged are not uncommon In Switzerland, however, the operation of direct democracy has, by and large, been free from these blemishes"[1] Thus the methods of direct legislation are exacting in their demands The people have to be public-spirited, sober, level-headed well-informed and educated

Bryce is quite doubtful about the success of direct legislation in countries in which people do not have the experience of peo[ple] like the Swiss and the Americans These methods have met w[ith] a good deal of success in Switzerland, where the sober democrat[ic] spirit is in the people's blood The same cannot be said of peopl[e] in most of the countries in the world J A Corry observes "Belief in the efficacy of direct legislation appears to be declining in the United States Most of the States that adopted it did so before 1914 under the impulse of the progressive movement and there has been no new adoption of it by any state in recent years In part this may be because its purposes have been largely accomplished"[2]

B The Plebiscite and the Recall

Plebiscite The Referendum and the Initiative are direct methods of legislation The Plebiscite and the Recall cannot be put on a par with them, as they can serve only as democratic checks

Direct Popular Vote on Important Questions C F Strong says "The term 'plebiscite means literally decree of the people The plebiscite is a device to obtain a direct popular vote on a matter of political importance but chiefly in order to create some more or less permanent political condition"[3] It is interesting to note that plebiscite was used by people who had scant respect for democracy Napoleon Bonaparte used it in 1799 in connection with

1 Bombwall and Bhandare *Major Contemporary Constitutional Systems* (1958) p 858
2 *Democratic Government and Politics* (1958) p 297
3 *Modern Political Constitutions* (1958) p 276

the Constitution of the Consulate, which he prepared after overthrowing the Directory by a *coup d'etat* He also used it, when he became the self-appointed Consul for life in 1802, and when he styled himself Emperor in 1804 Like Napoleon, his nephew Louis Napoleon (who became Napoleon III) used it three times in 1848, when he became the President of the Second Republic in 1851, when he overthrew the Republic by a *coup d'etat* and in 1852, in connection with the formation of the Second Empire As Strong points out, Hitler held plebiscites in 1933 to seek the nation's approval to Germany's quitting the League of Nations and the Disarmament Conference in 1934 to get the people's approval for combining the offices of the Chancellor and President in himself, and in 1938, to ratify the annexation of Austria

Merits The plebiscite has the following merits

(1) *Expression of People's Verdict* People secure opportunities to register their verdict on important political issues

(2) *Creates Interest* It creates political interest in the minds of the people and keeps them alert to give their verdict when required

(3) *Knotty Questions Solved* Controversial or knotty questions can be solved by people's verdict

Defects Apparently the plebiscite is a democratic measure but actually it may turn out to be a bad instrument Power-hungry politicians may by their questionable tactics prepare the ground for the "success" of a plebiscite This explains how Napoleon Bonaparte, Louis Napoleon Hitler and others, who are opposed to democracy secured the people's approval' The Nazis said that Hitler, the Fuhrer rose to power with the people's approval ! Robert Rienow says "The Soviet Union and her satellites afford us examples of this procedure of plebi cites it offers the advantage of appearing to consult the electorate without running the risk of an adverse vote The ill-fated dictatorship of Hitler and Mussolini followed the same plan and (especially the former) put a home-made democratic frosting on the ersatz cake"[1]

Recall The recall is a device by which officials elected by the people can be recalled or dismissed, when a proposal is made by a specific number of people In the USA in the state of Oregon, an elected official in the legislative or executive can be recalled.

1 *Introduction to Government* (1960) p 43

In eight West American States, the device is used In Colorado it is applicable to judges and to the verdict of judges

Merits Recall has certain merits

(1) Check on Officials It enables the people to exercise a healthy check on officials

(2) Better Administration The fear of being thrown out compels officials to stick to the path of rectitude, and thus administration can be satisfactory

Defects While there is the advantage of the people expressing their opinion on public officials and getting corrupt officials dismissed, the system of recall is bound to be dangerous when it falls into wrong hands The following are its defects

(a) *Timidity of Officials* Officials may become timid, and may not be inclined to take decisions The fear of recall may demoralise them

(b) *Popular Passions* Officials may become victims of popular passions

(c) *Currying Favour* Judges anxious to retain their jobs are encouraged to be timid and to curry favour with the public They are likely to be reluctant to give verdicts fearlessly and impartially for fear of unpopularity

C Whether India Needs Such Devices

The Constitution of India (1950) has made no provision for the use of direct methods of legislation (the Referendum and the Initiative) and of the Plebiscite and the Recall

As stated earlier the opinion of scholars weighs against the enlargement or extension of such direct democratic devices in the countries in which they already prevail and against the introduction of such devices in countries where they are not in constitutiona vogue.

In India, the conditions prevailing at present serve as a warning against the introduction of such devices As pointed out before, federalism is under great strain and parliamentary democracy is facing real dangers in the light of linguistic chauvinism, regionalism and casteism, (Please see Chap er 40 Section I on Democracy and Social Background of Indian Politics)

The masses of people in India have not become mature for making a correct and effective use of Referendum, Initiative Plebiscite and Recall, and moreover, short-sighted and power-

...hungry leaders, are likely to misuse them The introduction of such devices in a country, which in recent years has shown ample evidence of want of sobriety, sense of moderation, tolerance and wisdom, would lead to dangerous consequences

D Delegated Legislation

Legislation by the Executive In recent years, there has been an enormous increase in the powers of the executive owing to delegated legislation Delegated legislation can be regarded as legislation by the executive "Suppose Parliament enacts a law relating to agriculture and provides that the Ministry of Agriculture and Fisheries shall make by-laws or regulations under the law The framing of such by-laws and regulations by that Ministry will be delegated legislation "[1] Here executive officials in the Ministry of Agriculture do legislative work ministers enjoy legislative powers to issue orders and deal with particular situations within the field assigned to them by law

Why Delegated Legislation Finer gives the following reasons for the rise of secondary departmental, delegated administrative or subordinate legislation

(1) excessive work of legislatures

(2) complex and technical nature of problems

(3) need of administrative flexibility or discretion

(4) (ref to the USA particularly) 'some fields of regulation are too unclear in their legislative demands for Congress to be itself sure of what to do in each case "

Conditions in modern times are responsible for increasing the powers of the executive and for decreasing the powers of the legislature The modern state lays emphasis on the principle of social welfare The legislature is unable to make all detailed laws and rules regarding the various schemes undertaken by government, and is compelled by circumstances to delegate power to the executive to make laws The legislature gives only a bare outline of laws and the details have to be provided by the executive But these details have to be drawn up strictly within the broad framework of the law passed by the legislature The executive cannot arrogate to itself the original law-making powers of the legislature Finer says "Rules and orders are bound to increase

1 A Nandi *An Introduction to Political Science* (1955) p 302

2 *The Theory and Practice of Modern Government* (1961) p 524

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(3) need of administrative flexibility or discretion,

(4) (ref to the USA particularly) 'some fields of regulation are too unclear in their legislative demands for Congress to be itself sure of what to do in each case "[2]

Conditions in modern times are responsible for increasing the powers of the executive and for decreasing the powers of the legislature The modern state lays emphasis on the principle of social welfare The legislature is unable to make all detailed laws and rules regarding the various schemes undertaken by government, and is compelled by circumstances to delegate power to the executive to make laws The legislature gives only a bare outline of laws, and the details have to be provided by the executive But these details have to be drawn up *strictly within the broad* framework of the law passed by the legislature The executive cannot arrogate to itself the original law-making powers of the legislature Finer says "Rules and orders are bound to increase

1 A Nandi *An Introduction to Political Science* (1955), p. 302

2. *The Theory and Practice of Modern Government* (1961) p.524

with the evolution of the social policies of our time It is equally certain that the law-making body is ill-organized for their control, while the ordinary courts of law are irritated and often incapable of properly measuring administrative necessity and justification by the standards they properly use in general"[1]

Dangers in Delegated Legislation and Need to Provide Safeguards One finds dangers in delegated legislation to the status and powers of the legislature and to democracy itself, and therefore the legislature should be cautious in delegating legislative power Delegated legislation puts too much power into the hands of the executive, and it may be dangerous to the liberty of the individual While delegating legislative power, the legislature should keep the executive within bounds, by clearly defining the limits of authority delegated As Laski points out, courts must be empowered to deal with cases pertaining to delegated power

There can be no unanimity of opinion regarding the merits of delegated legislation and it is possible to take sides A Nandi points out that "the situation is not as bad as some of the critics try to portray it"[2] In England the sovereignty of parliament, the rule that statutory rules and orders must be laid before the House of Commons within forty days before they are made effective, the regulation that some of the rules must be approved by an affirmative resolution by both the houses to be effective, and the fact that rules are subject to judicial review are safeguards against delegated legislation A Select Committee of the House of Commons known as the Scrutiny Committee has been checking rules and orders and drawing the attention of Parliament wherever necessary since 1944

E Decline in the Powers of the Legislature

OR

Increase in the Powers of the Executive

Causes The following causes explain the rapid increase in the powers of the executive and the decline in the powers of the legislature

(1) Concept of Welfare State Social welfare schemes dictate the need to arm the executive with wide powers In states wedded to the concept of social welfare, legislation pertaining to social and economic reforms has enormously strengthened the hands of the

1 Ibid p 525
2 Op cit p 303

executive In India, which is wedded to the concept of the welfare state the executive has assumed vast powers

(2) Party System The growth of the party system has facilitated the rise in the powers of the executive In a parliamentary democracy, an executive banking on the support of the majority party can assume dictatorial powers, and at the same time loudly proclaim that it is responsible to the legislature

(3) Delegated Legislation As stated above, delegated legislation is another factor in favour of the executive

MAIN POINTS

1 **Referendum** Proposed law or constitutional amendment put to vote of the people

Merits—1 Expression of people s will 2 People s verdict on legislature 3 Safeguard against political parties 4 Antidote against tyranny of the majority 5 Renewing contact between people and legislature 6 Solving Deadlock between houses 7 Educative value 8 Greater obedience to laws 9 Democracy meaningful 10 Protection of minority interest

Defects—1 Poor contribution 2 People incompetent 3 People s indifference 4 Degradation of legislature 5 Expense disgust and delay 6 Reluctant obedience to law 7 Constitution of party evils 8 People s mere yes or no

2 **Initiative** Initiative of people in legislation Formulative Initiative and Initiative in General Terms

Merits—1 Positive right of making law 2 Law expression of people s will

Defects—1 Degradation of legislature 2 Laws badly made 3 Below expectations Not advisable to extend direct methods of legislation

3 **Plebiscite** 1 Plebiscite Direct popular vote on important questions Merits—Similar to those of Referendum Defects—A good tool in the hands of power-hungry politicians

4 **Recall** Dismissal of elected officials Merits—Check on officials Better administration Defects—1 Timidity of officials 2 Popular passions 3 Currying favour

5 **Delegated Legislation** Legislation by executive Complex nature of problems Welfare activities Legislature very busy Power delegated to the executive Power to make bye-laws and regulations Dangers in delegated legislation Need to provide safeguards

6 **Decline in Powers of Legislature** Causes 1 Concept of welfare state 2 Party system 3 Delegated legislation

Section XIV
THE EXECUTIVE

CHAPTER 51

ORGANISATION OF THE EXECUTIVE

A Meaning and Importance of Executive

(Please see pages 225-28 for Power, Authority and Structure of Authority)

Execution and Enforcement of State Will The legislature formulates the will of the state and makes laws, and the executive enforces them J W Garner says "The function of the executive, however, is not primarily to deliberate, but to execute, enforce and carry out the state will as expressed by the legislature and the constituent assembly and as interpreted by the courts"[1]

Importance No state can exist without the executive, the most important organ of government The breakdown of the executive will mean the state coming to nought In recent years, several factors have been responsible for putting wide powers in the hands of the executive at the expense of the legislature The executive is charged with the duty of steering the ship of state Often, the executive is referred to as government, and an order from the executive is many a time regarded as government order Thus one branch of the government is treated as the whole government

1 *Political Science and Government* (1955) p 618

E B Schulz observes "A general trend throughout the world at all levels of government is the growing importance of the executive In the determination of policy as well as in administration, chief executives and their numerous administrative subordinates are becoming so influential that even in democracies legislative assembles are playing a supporting rather than a leading role in the government process"[1]

Executive in Broad Sense Broadly understood, the term 'executive' includes all officials high and low and all departments concerned with the execution of law In India, for instance, the President the Vice-President, the Prime Minister and his colleagues *in the Cabinet, the various government secretaries, the* large army of clerks working under them, the various persons working in the police departments, the members of the army, navy and air force, in other words all persons connected with the enforcement of law form the executive

Executive in Narrow Sense In the narrow sense, the executive means only the chief executive for instance, the President and the Union Council of Ministers in India

We are using the term executive here in the narrow sense

B Kinds of Executive

We shall now study the different kinds of executive (1) Real and Nominal (2) Single and Plural (3) Hereditary, Elected and Nominated (4) Political and Permanent, and (5) Parliamentary and Non-Parliamentary

1 Real (Actual) and Nominal (Titular)

The executive, which exercises real power is the real executive, whereas the executive which has nominal power, that is, power on paper only is the nominal executive The Cabinet in Britain is the real executive, but the King or Queen is the nominal executive The President in India is the nominal executive, but the Union Council of Ministers is the real executive The President of the USA is not a nominal, but a real executive (In the USA, which has the Presidential system, there is no nominal executive) In France the President is the nominal head, but the real authority is vested in the cabinet "The distinction between nominal and actual executive heads depends largely upon the relation of the executive to the legislature"[2] In the Parliamentary system the

1 *Essentials of Government* (1961) p 399
2 R G Gettell *Political Science* (1956) p 338

Prime Minister is a member of the legislature and is responsible to it The King in England and the President in France are nominal executives in such a parliamentary set up The President of the USA is a real executive, and he is not responsible to the legislature

2 Single and Plural

A single executive is one in which ultimate executive authority is vested in one individual or in several individuals, who act in a collective capacity, as if they were one individual but in a plural executive it is vested in two or more individuals

Almost all states like Britain, the USA, India and France have the single executive

In ancient Athens, the executive was plural, as executive power was divided among generals and archons In the Republic of ancient Rome, the top executive power was vested in two Consuls Similarly, in Sparta, executive power was shared by two Kings In modern times, Switzerland and the USSR have plural executive

The difference between single and plural executives is not on the basis of number but on the basis of responsibility Britain and India have the single executive, though there are several ministers All ministers in these states have to function according to the principle of collective responsibility

Merits of Single Executive The following are the merits of the single executive

(1) It can be vigorous and prompt, as authority is not divided, and time is not wasted in long and fruitless discussions

(2) It can work with singleness of purpose and with undivided attention

(3) It can ensure complete secrecy

Defects of Plural Executive

(1) The plural executive is weak as it is divided

(2) It cannot act vigorously and promptly, as much time may be wasted in prolonged discussions leading nowhere

(3) It is difficult to ensure secrecy, which is essential for the proper functioning of the executive

Thus the single executive is far better than the plural Though the plural executive has succeeded in Switzerland, it does not prove its superiority The Swiss people have particular traits, and peculiar traditions and institutions not found in other countries

3 Hereditary, Elected and Nominated

The executive is hereditary, when executive power passes according to the hereditary principle without reference to merit and competence

The executive is elected when people directly or indirectly elect it

The King in Britain represents the hereditary executive Italy and Belgium also have hereditary monarchies

Elections may be direct or indirect The executives of the South American Republics like Bolivia, Chile, Mexico, Brazil and Peru are elected directly by the people The Presidents of the USA and India are indirectly elected by electoral colleges In France, under the Third Republic, the President was elected by the National Assembly, that is, the two houses of the legislature sitting together In some cantons of Switzerland the executive is elected by the legislature

Certain executives are nominated The Viceroy and Governor-General in British India was nominated by the British Government

4 Political and Permanent

The political executive is temporary and it changes from time to time according to fortune in elections, whereas the permanent executive continues to function permanently irrespective of the rise and fall of the political executive The Union Council of Ministers and Councils of Ministers in different States in India are examples of the political executive, and the various officials and clerks in the civil and military departments, who carry out the orders of the political executive form the permanent executive As in India, in Britain also the Cabinet, the political executive remains in authority only as long as it commands the confidence of the legislature Once in five years elections are held and the political executive emerges from the majority party in Parliament (Please see Chapter 55 for difference between Political Executive and Permanent Executive)

5 Parliamentary and Non-Parliamentary

Parliamentary executive is responsible to the legislature, and remains in office only as long as it can command the confidence of the legislature It cannot remain in power even a moment after it has clearly forfeited the confidence of the legislature T non-parliamentary, non-responsible or presidential executive

tions independently of the legislature Its tenure of office goes by the calendar The executive in Britain and India is parliamentary, the executive in the USA is *presidential* or non-parliamentary or non-responsible

C *Organisation of the Executive*

Assumption of Power in Different Ways As stated already, the chief executives assume executive power in different ways hereditary succession, appointment, direct or indirect election, election by the legislature and sometimes by *coup* or usurpation

Importance of Efficient Functioning of Executive The executive must be organised on sound principles so that government is conducted smoothly and efficiently, and people secure the benefits of good rule The executive, whether political or permanent, must follow clearly laid down principles so that the ship of state has smooth sailing It must be energetic and vigorous and guided by a singleness of purpose It must be capable of taking quick decisions, particularly during emergencies and war time A weak and wavering executive is the despair of the people both in war time and peace time

While the executive must be strong, it must not be arbitrary, irresponsible and tyrannical It should respect the wishes of the legislature, and bend its energy for the good of the people

Executive work is conducted by the political executive and a large army of officials and clerks The number of persons working in the executive branch of government is indeed large, and in numerical strength the legislative and judicial branches are nowhere before it As R G Gettell points out, "numerically the executive branch of government far outnumbers all the others combined"[1] Much importance has to be attached to the organisation of the executive, for as J A Corry says the executive is the "the main spring of government" "Where judges are numbered by dozens and legislators by hundreds, the executive counts in tens of thousands Its importance is not merely numerical It makes the wheels go round Germany and Italy have proved that nation states can continue in some fashion without a functioning legislature and without a judiciary of significant independence But when the executive breaks down, the central government collapses"[2]

1 Ibid. p 332
2. *Democratic Government and Politics* (1958) p 147

Tenure In the case of the hereditary executive, the question of duration of office does not arise The king or queen in England acts as the titular head or the nominal executive till his or her death

In the case of elected executives a tenure is fixed The President of the USA is elected for a term of four years, the President of India for five years, the French President for seven years, the Swiss President for one year, and the Brazilian President for four years

The Cabinets in Britain and India remain in power only as long as they command the confidence of the legislature When conditions are normal, cabinets commanding the strong support of the majority party enjoy power for five years

General elections are held periodically Executives can stand for re-election after the expiry of their term of office

In 1951, the Constitution of the USA was amended to see that a candidate is not elected more than twice This was in the light of President F D Roosevelt's election for the fourth time In India, Dr Rajendra Prasad did not stand for election as President for the third time, as the most important Congress leaders were against his re-election, and they wanted to establish the convention of not more than two terms

The term of the executive should not be either too short or too long Four or five years is quite reasonable If the term is too long, the executive may become dangerously powerful, and if it is too short, it may no be capable of doing useful work by planning in the proper way

Qualifications Certain qualifications are required of elected executives They may be regarding age, education, property, citizen ship or nationality, and integrity of character As regards civil servants, appointments are made according to rules and regulations so that competent men are put in charge of government work

Removal Provision is made for the dismissal of the persons in the executive in cases of high crimes and misdemeanours The Presidents of the USA and India can be removed by impeach ment Cabinets in Britain and India can be compelled to resign by a vote of no-confidence in the legislature Members of the civil service can be dismissed according to the rules given in the service code

(See chapters 53 and 54 for details regarding the executive in Britain, the USA, Switzerland, the USSR and other

MAIN POINTS

1 **Meaning and Importance** Execution and enforcement of state will Numerical superiority over legislature and judiciary Most important branch of government Executive in the broad and narrow sense

2 **Kinds of Executive** 1 Real and Nominal 2 Single and Plural The former is better than the latter 3 Hereditary Elected and Nominated 4 Political and Permanent 5 Parliamentary or responsible and Presidential or non-parliamentary

3 **Organisation** 1 Election nomination hereditary succession and coup 2 Organisation on sound principles Efficient working 3 Tenure Neither too short nor too long 4 Certain qualifications essential

CHAPTER 52

POWERS AND FUNCTIONS OF THE EXECUTIVE

A Wide Powers

Increasing Functions The state in modern times has to meet the ever increasing needs of society and promote the welfare of the people It is called upon to perform a formidably large number of functions and enter fields, which in the past were left unattended Most of the modern states go far beyond the limit of maintaining peace and order

Enormous Powers to Match Functions The executive requires wide powers to match its functions In a dictatorship the executive exercises very high voltage power without the approval of the people, whereas in a democratic state power is exercised with the consent of the legislature or according to the principles laid down in the constitution In all modern states, whatever may be the form of government, the executive has enormous power, spends large funds and discharges various kinds of duties C F Strong explains how the executive has become more powerful than the legislature "In spite of the vast importance of the legislative function in modern government, it tends to be overshadowed by the executive, first because modern executive business is concerned not only with executing laws, but also in many cases, with initiating policy to be sanctioned by the legislature, the growth of democracy has produced in modern constitutional states this pardox—that the greater the volume of legislation the greater the area of uncontrolled executive "[1] The executive in a welfare state has to shoulder heavy responsibilities and has to be adequately empowered

B Functions of the Executive

The following are the functions of the executive

1 Enforcing Law Maintaining Peace and Order The executive is charged with the duty of enforcing law Though the

1 *Modern Political Constitutions* (1958) p 212

number of law-breakers is small, the duty of maintaining peace and order is of great significance The fear that the wheels of executive action will move swiftly to punish makes most of the people law-abiding

The executive must provide security to life and property To many, this seems to be an unimportant function, as it is taken for granted There was a time, when security was a rare commodity, and much of the energy of the government was spent on suppressing disorders The tax-payer expects certain returns for his payment, and the minimum that he expects is safety to life and limb and an atmosphere in which each man can enjoy what he earns without the fear of being deprived of his goods "The term 'law enforcement' inadequately describes the actual practice because, in fact, most laws do not have to be enforced The activity comprises services performed by the government for the benefit of the public rather than enforcement of law against a recalcitrant populace As a matter of fact, enforcement against law-breakers applies only to a very small percentage of cases"[1]

2 **Resisting Aggression and Building Friendly Relations with Foreign Countries** The executive has to resist foreign aggression This is one of the basic functions of the state No state today can live in isolation and therefore every state has to maintain contacts with foreign countries for the sake of promotion of good will and friendly relations and for the promotion of trade and commerce

A farsighted and shrewd executive knows the friends and enemies of the state The foreign policy should be so oriented that the area of enmity of foreign states towards the state decreases and that of amity increases A thoughtless and short-sighted executive goes on antagonising foreign states and converts potential friends into actual enemies E B Schulz observes A country s foreign policy is determined in large measure by the executive branch of government The chief executive speaks for the state in dealings witho ther members of the international community and the attitude he takes towards problems which arise is a major factor in determining whether relations with a particular country are friendly or strained"[2]

Declaration of War and Treaty Making Sometimes a state is compelled to enter into war, in spite of its intentions to the

1 J S Roucek and Others *Introduction to Political Science* (1954) p 304
2 *Essentials of Government* (1961) p 403

contrary For instance, in 1962 the executive in India had to send its armies to the Himalayan ranges to fight against the Chinese invaders The same had to be done, when Pakistan committed aggression on India in 1965 The power to declare war is of great significance, as the commencement of hostilities brings about far reaching changes in a state

In England the executive can declare war without consulting the legislature But it cannot prosecute the war without the support of Parliament, because it is the Parliament which has to provide the sinews of war

In the USA, the President cannot declare war, only the Congress is competent to do so But the President may follow provocative policies towards foreign states and make war inevitable

"Treaty-making is, practically speaking, law-making because treaties when put into effect have the force and effect of law "[1] The President of India is in supreme command of the Defence Forces of the Union and has the Power of declaring war and making peace War creates conditions, which necessitate the grant of unbridled power to the executive "After war is declared, the war power of the executive expands enormously Even in democracies, the exigencies of modern war necessitate conferring upon the executive arm not only control over all military and naval phases of the war, including grand strategy, but power over the disposition of raw materials, the manufacture of needed products, and any or all materials entering into consumption including their prices and the amounts consumed "[2] In the USA, all treaties made by the President have to be ratified by the Senate In Britain, all treaties are made by the executive, and they are outside Parliament's jurisdiction

3 **Making Appointments** The executive commands wide and lucrative patronage It makes important appointments in the civil and military departments according to the law and the provisions of the constitution In India, the President appoints the Prime Minister, and on his recommendation other Ministers of the Union Council of Ministers, similarly he appoints officers in the army, the navy, the air force, and the civil departments, ambassadors and judges of the Supreme Court and of the High Courts Several appointments are made by the executive through

1 J S Roucek and Others *Introduction to Political Science* (1954) p 302
2 Ibid, p 303

the Public Service Commissions In the USA, the appointments made by the President have to be approved by the Senate

4 Legislative The executive has legislative functions also These are the following

(a) Summons, Prorogues, and Dissolves Parliament The executive in a cabinet system summons, prorogues, and dissolves parliament It is also authorised to summon special or extraordinary sessions of the legislature

(b) Introducing Bills Though the legislature is supposed to make laws in the parliamentary system, the initiative is taken by the executive In countries like Britain and India, which have the cabinet system, most of the bills are introduced by the executive, that is, the ministers Ministers appear on the floor of the house and pilot the bills In the USA, the President cannot introduce bills in the legislature, but can send messages to the Congress so that his ideas can be embodied in the bills to be introduced

(c) Assent to Bills The executive has the power to give assent or withhold assent to bills passed by the legislature No bill becomes law without the assent of the executive E B Schulz points out "This veto power may be absolute, ordinarily it is merely suspensive In the latter case the legislature may override the veto, but whether easily or with difficulty depends on the size of the vote required "[1] In India, all bills passed by the Parliament have to go to the President for his assent Normally, the President gives his assent In case he withholds it, he has to send the bill back to the Parliament with his message The Parliament then passes the bill again with or without amendments and sends it to the President, who has to give his assent to it In Britain, technically the King can veto legislation but at present the King who knows his titular position too well dare not make use of this power, which has fallen into disuse since 1707 "In parliamentary governments the veto power becomes obsolete because the system of cabinet responsibility requires the executive and the majority in parliament to be in harmony on major legislative issues "[2]

(d) Issuing Ordinances The executive can issue decrees or orders or regulations, which have the same force as laws These are called ordinances, which are on par with Acts of Parliament In India, the President can issue ordinances when the two Houses of Parlia

1 *Essentials of Government* (1961) p 405

2 J S. Roucek and Others *Introduction to Political Science* (1954) p 336

ment are not in session, a but he has to place these before Parliament, and they lose their validity six weeks after Parliament reassembles "The ordinance power, which is universally exercised by chief executives, though in different degrees, permits interpretation of laws and their application in detail by means of orders or rules and regulations In European states this power is so broad that the executive is permitted to issue general orders of a legislative character subject only to approval by the legislature "[1]

(e) Making By-laws and Rules according to Delegated Legislation With the rise of delegated legislation, the legislature can make by-laws and rules within the broad framework of law passed by the legislature The legislature gives only the broad outlines of laws, as it is overburdened with work The details have to be filled in by the executive according to power delegated to it by the legislature

Delegated legislation puts wide discretionary powers in the legislative field in the hands of the executive (See Chapter 50 for delegated legislation)

(f) Emergency Powers In certain states, the executive enjoys vast emergency powers The executive in India is a good example The President of India exercises emergency powers during three types of emergencies

(1) emergency owing to war or aggression or internal disturbance or the threat of disturbance

(2) emergency owing to the failure of the constitutional machinery in the States, and

(3) financial emergency

The powers of the President are so extraordinary that when he makes a proclamation of emergency, the federal constitution of India becomes unitary and parliament gets unrestricted powers to pass laws for the whole of India or for any part regarding any subject given even in the State List Even fundamental rights can be suspended In India, since the Chinese committed aggression in October 1962, there was a state of emergency till January 10, 1968 as proclaimed by the President The executive assumed extraordinary powers to deal with the emergency

(g) Interpretation of Law Though the judiciary is supposed to interpret law, the executive also has vast scope to do so The

1 Ibid p 306

executive "may change the entire character of a statute by construct ing it in such a manner as to favour his own point of veiw, and nullify the intention of the legislature by the manner in which he interprets and applies the law in detail"[1]

5 Improving People's Lot All over the world, states are wedded to the principle of social welfare The executive takes the lead in drawing up plans to improve the social and economic conditions of the people Running public utility services, improving people's health spreading education, encouraging industry, trade and commerce raising the standard of living of the people and providing various types of social services have become essential in all states having enlightened rulers The executives in Britain, the USA and in the continental countries have set up a proud record of their services to the people According to her Constitution (1950), India is a welfare state, and the executives at the Centre and in the States have to play an important part in promoting the welfare of the people

6 Financial Functions and Taxation The executive has financial functions and it enjoys vast powers as regards raising moneys and spending them "Chief executives commonly are granted the right to prepare a budget for consideration by the legislative authority and to exercise sufficient control over depart mental spending to ensure adherence to whatever financial progra amme the legislature eventually approves "[2] According to democratic principles, the executive has to raise taxes and spend money with the consent of the legislature In a parliamentary system demands for grants have to come from the executive The finance bill is introduced and piloted by the finance minister in parliament, and in the state legislatures Taxes sanctioned by parliament through the finance act are collected by the executive When the majority support in Parliament can be taken for granted, the cabinet can impose any taxes it likes

7 Judicial Functions The executive has judicial functions also, and these are the following

(a) *Power to Pardon* The executive enjoys the judicial power to give reprieves or pardons and to remit sentences partially or fully The President of India has the power to grant pardons, reprieves or remissions of punishment He can also

1 Ibid p 307
2 E. B Schulz *Essentials of Governments* (1961) p 402

suspend, remit or commute the sentence of any individual convicted of any offence The purpose of giving the power to pardon is to enable the executive to exercise elemency where there is reasonable doubt that there has been miscarriage of justice

(b) *Adjudication* Executive officers enjoy wide powers of adjudication

8 Miscellaneous Several functions of the executive are of a miscellaneous type The executive has to do several administrative functions of a general nature viz organising and manning various departments and supervising their activities, making appointments, giving promotions and dismissing, coordinating the work of the various departments, maintaining a high tone and morale of administration and so on

Immunities The chief executive of a state enjoys special privileges and immunities He is not subject to the jurisdiction of ordinary courts either for political or criminal acts, as far as he is in his official position Such immunities are enjoyed by the King or Queen in England, the President of India, the President of the USA, the President of France and the executives of other countries

C Increase in the Powers of Executive

We have noted elsewhere that there has been a progressive increase in the powers of the executive in recent years E B Schulz observes "The pre-eminence of the executive is largely due to the extent and the complexity of governmental activity in modern society Many of the problems to be solved by the governments are highly complicated and technical in character, and require expert knowledge of the type which is more likely to be found in the administrative than in the legislative branch of government "[1]

Causes The following factors are responsible for the rapid increase in the powers of the executive in recent times

(a) *Complex Nature of Problems* The executive requires to be armed with extensive power to cope with the complex problems of the modern state

(b) *Legislature Overburdened* In almost every state, the legislature is overburdened, and it can broadly control the executive without meddling with minute details

(c) *Delegated Legislation* The principle of delgated legislation has been accepted everywhere Legislatures provide broad outlines

1 Ibid p 399

of legislation and empower the executive to make detailed by-laws, rules and regulations

(d) Planning Almost every state has resorted to planning As the executive has to see through the various plans, it has to be armed with wide powers

(e) Political Parties The rise of well-organised parties in all states with different systems (parliamentary, presidential and others) has also contributed much in increasing the powers of the executive

MAIN POINTS

1 **Wide Powers** Increasing functions of the executive and powers to match them

2 **Functions** *Enforcing* law and maintaining peace and order 2 Resisting aggression and building friendly relations with foreign countries 3 Legislative. 4 Promoting people s welfare 5 Financial functions and taxation 7 *Judicial* functions 8 Miscellaneous

3 **Causes of Increase in Power** 1 Complex nature of problems 2 Legislature overburdened 3 Planning on a large scale. 4 Delegated legislation. 5 Political parties

CHAPTER 53

THE PARLIAMENTARY EXECUTIVE

Britain can claim credit for having evolved the cabinet-parlia mentary government in the first half of the eighteenth century in the course of a struggle between Parliament and the Stuart Kings The example of England was copied by other countries like Australia, Belgium, Canada, Denmark, France Holland, India, Japan, Norway, New Zealand, Sweden, and the Union of South Africa

A Definition and Meaning of Parliamentary Executive

Real Executive Dependent on and Responsible to Legislature The parliamentary executive is also called responsible executive, and the parliamentary system is often referred to as the cabinet system J W Garner gives a good definition of cabinet government "Cabinet government is that system in which the real executive—the cabinet or ministry—is immediately and legally responsible to the legislature or one branch (usually the more popular chamber) for its political policies and acts and mediately or ultimately respon sible to the electorate, while the titular or nominal executive—the chief of state—occupies a position of irresponsibility"[1]

In the parliamentary system, there are two types of executive Nominal and Real The real executive remains in office only as long as it enjoys the support of the majority in the legislature and commands the confidence of the legislature No sooner it forfeits the confidence of the legislature than it has to resign, the resigning executive may request the nominal executive to dissolve the legis lature and hold fresh elections

E B Schulz says "The status of the cabinet under the cabinet-parliamentary system is one of dependency on the legis lature which may force the downfall of cabinet by refusing to follow its leadership Removability of the working executive, i e

1 *Political Science and Government* (1955) p 296

the cabinet, at the pleasure of the legislature is one of the distinctive features of cabinet-parliamentary government "[1]

Cabinet a Committee of Parliament In the cabinet system, the cabinet is nothing but a committee appointed by and responsible to parliament C F Strong makes a significant observation on the British parliamentary system "The essence of this executive system is that, in the last analysis, the Cabinet is a committee of Parliament, tending to be with the advance of democracy, a committee of the House of Commons The historical development of the sway of parliament over the executive has been associated with the growth of the party system "[2]

Nominal and Real Executives As stated above, in the cabinet system, there are two types of executive Nominal and Real The nominal executive has to act according to the advice of the real executive In Britain, the King or the Queen is the nominal executive, and the cabinet is the real executive In India, at the Centre the President is the nominal executive, and Union Council of Ministers is the real executive In both the countries the cabinets are responsible to the respective legislatures The USA has the presidential or the non-responsible executive, and the President is not responsible to the Congress

B Features of the Cabinet System

Now we shall discuss the salient features of the cabinet system

1 Cabinet Real Executive

Nominal Executive Head of State Giving Continuity A state having the cabinet system has two types of executive Nominal and Real The nominal executive technically speaking, is the head of the state, and authority is exercised in his name In Britain, the *de jure* head of the state is the King or the Queen, and one speaks of His or Her Majesty's Government The King or Queen does not exercise any real power, but continues to reign till his or her death as succession is according to the hereditary principle and the office is for life The King gives continuity to the administration, as the rise and fall of cabinets do not affect his position

1 *Essentials of Government* (1961) p 255
2 *Modern Political Constitutions* (1958) p 219

In India, the President, the nominal executive is indirectly elected for a term of five years He is the head of State, but not head of Government

Real Power in Cabinet Enjoying Confidence of Legislature or One House of Legislature The real executive power is vested in the cabinet, which can remain in power only as long as it commands the confidence of the legislature or one house of the legislature Walter Bagehot observes "The cabinet, in a word, is a board of control chosen by the legislature, out of persons whom it trusts and knows, to rule the nation"[1] The real executive commands vast powers and actually rules the country "The cabinet controls (on terms and during its good behaviour) the law-making assemblies, the making of law, the time table of the Commons and the Lords, the parliamentary committees, the making of executive rule and orders, the estimates, the taxing power, the public corporations—all on the terms that it satisfies the legislature, which normally, it is sure to do because cabinet and legislature are one" This is what Finer says about the British Cabinet[2]

Bills Need Assent of Nominal Executive Bills need the assent of the nominal executive But this assent is a mere formality In India a bill becomes law only after securing the assent of the President

Nominal Executive Acts according to Advice of Real Executive The nominal executive has to act according to the advice of the council of ministers, and there will be a constitutional crisis if he acts contrary to it The President or the King in Britain acts according to the advice of the Prime Minister In a State in India, the Governor is the nominal executive, and he has to act according to the advice of the Chief Minister

2 Real Executive Drawn from Parliament

Nominal Executive not Member of Legislature While the King in England and the President in India are as heads of state nonparty men, who are not members of Parliament and who do not participate in its deliberations, the members of the Cabinets in both the countries have to be members of the legislature For instance, Smt Indira Gandhi and her colleagues in the Union

1 In Eckstein and Apter (Ed), *Comparative Politics (1961)* p 192
2 *The Theory and Practice of Modern Government (1961)*, p 621

Council of Ministers are the members of Parliament In India, if a minister is not a member of the legislature at the time of his appointment, he has to secure a seat in the legislature within six months after his appointment, failing which he has to resign

3 Link between the Real Executive and the Legislature

Principle of Fusion of Powers In the cabinet system, we find the principle of the fusion of powers The fact that ministers have to be members of the legislature shows the inevitable link between the real executive and the legislature While the presidential system is based on the principle of separation of powers, the cabinet system is based on the principle of fusion of powers For instance, at the Union level in India Smt Gandhi and her colleagues are members of the executive and at the same time members of Parliament Ministers sit in the legislature participate in discussion, formulate policies and defend them in the legislature and also introduce and pilot bills Thus, in the hands of ministers, the executive power to issue orders and the legislative power to introduce bills are fused Two types of powers are concentrated in the same hands E B Schulz observes "Integration of authority is a feature of the cabinet–parliamentary plan Not only is the cabinet responsible to the legislature, but the same individuals who provide legislative leadership also hold the highest positions in the executive branch of government There is thus a personal union of powers at the top even though, as a matter of structure the legislative and executive branches are separately organized and, for the most part, separately manned"[1] Such a fusion is absent in the USA President Nixon cannot introduce bills in the Congress, he is not and cannot be a member of the Congress, and he is not responsible to it

4 Cabinet a Hyphen that Joins and Buckle that Fastens The executive branch of government meets the legislative branch in the cabinet, in fact the one is fastened to the other Walter Bagehot observes in connection with the British Cabinet "A cabinet is a combining committee—a *hyphen* which joins, a *buckle* which fastens the legislative part of the state to the executive part of the state In its origin it belongs to the one, in its functions it belongs to the other"[2] Again he points out 'The connecting

1 *Essentials of Government* (1961) p 117

2 In Eckstein and Apter (Ed.) *Comparative Politics* (1963) p 192

link is the *cabinet* By that new word we mean a committee of the legislative body selected to be the executive body The legis lative has many committees, but this is the greatest "[1]

5 *Preponderant Position of the Prime Minister*

Another feature of the cabinet system is the preponderant position of the Prime Minister

Head of Cabinet, Leader of Parliament and Leader of Majority Party The prime minister is the head of the cabinet and commands very great power and prestige in the country Though it is said that the prime minister is only the first among equals, actually a prime minister of the calibre of the late Pandit Jawahar lal Nehru can tower above all Prime Minister Nehru with his extraordinary qualities and charismatic leadership could wield dicta torial powers almost without being challenged by anyone in the party or country R H Solton observes "The prime minister is in fact four persons rolled into one He is the head of the cabinet, that is of the government of his country, and as such is easily the most powerful of its citizens He is also the leader of the parliament-the one whose interventions in the debates have the greatest weight, who states and interprets government policy, who is responsible for obtaining its sanction by parliament Thirdly he is the person through whom the head of the state normally communi cates with the cabinet Fourthly he is the head of the party "[2]

Sun among Planets It is said that Morley's phrase *primus inter pares* (first among equals) underestimates the position and power of the Prime Minister " In fact, Sir William Vernon Har court's phrase *inter stellas luna minores* (a moon among the stars) seems to be more near the truth "[3] It would be as Jennings says more appropriate to say that the prime minister is like the sun around which planets rotate Ministers have power because the prime minister wants them to have it No minister can be in the Council of Ministers, if the Prime Minister has lost confidence in him

Ministry Maker The prime minister is the actual ministry maker, though the nominal executive appoints the ministers technically speaking The prime minister as the leader of the majority party selects his colleagues who therefore owe their

1 Ibid p 191

2 *An Introduction to Politics* (1958) p 221

3 Rombwal and Bhandari *Major Contemporary Constitutional Systems* (1958) p

positions to him He selects only such persons who he feels will give him the fullest cooperation and strengthen his hands It is the prime minister who distributes portfolios among ministers The prime minister acts as a link between the nominal executive on one side and his colleagues and the legislature on the other After the general elections, the President in India invites the leader of the majority party in the Lok Sabha to form a government (In case no party is in majority, the President will ask the leader of any one of the parties to form a coalition ministry Here the leader should be able to muster enough strength in the Lok Sabha to form a ministry) The President appoints the other ministers at the Centre on the recommendation of the Prime Minister The most important considerations that weigh in the mind of the Prime Minister are the ability and integrity of ministers "The most elementary qualifications demanded of a minister is honesty and incorruptibility It is, however, necessary not only that he should possess this qualification but also that he should appear to possess it"[1]

Most Important Figure The prime minister is the key figure in the country, and the people expect much from him Wherever he is, at cabinet meetings in parliament, at public meetings and at press conferences, he is the cynosure of all eyes His policies and statements are being carefully watched all over the country Upon him depends the success or failure of the government He commands truly high voltage power and patronage, which perhaps even powerful autocrats in the past did not have As the real head of government, the prime minister commands the attention even of the world

Political Homogeneity

Same Party and Identical Views Political homogeneity is an essential feature of the cabinet system The cabinet system can function well only when all ministers belong to the same party and hold identical views If the cabinet is like a multicoloured fabric, hardly any cooperation among ministers is possible Homogeneity is impossible, when ministers of different views and ideologies are in the same cabinet There is no homogeneity, when no single party in parliament emerges as a majority party In India, since the Constitution came into force on January 26 1950, the Union Councils of Ministers have been characterised by a high degree

1 Ivor Jennings *Cabinet Government* (1959) p 106

of political homogeneity and stability This has been possible as the Congress Party won majority at the centre in all the four General Elections (1952 1957, 1962 and 1967) A cabinet consisting of all Congressmen has complete homogeneity Ministers are all wedded to the basic principles of the Congress viz. a socialistic pattern of society, democracy with socialism, principles of welfare state, non-alignment and peaceful coexistence and so on.

When no party is in majority in Parliament, only a coalition cabinet can be formed, but this will drag on a precarious existence. Cabinets in France change frequently, as there are several parties in the legislature none of which can command a majority A homogeneous cabinet supported by the cement-concrete pillars of the majority party can command great homogeneity and stability All ministers broadly speaking, will uphold similar views and policies and will have the same attitude and opinion in public

If a minister disagrees with his colleagues, the differences have to be ironed out behind closed doors, and are not to be made public If the minister concerned continues to disagree and differences cannot be patched up he will tender his resignation.

7 Cabinet Responsible to Legislature

Members of the legislature ask questions and supplementary questions to elicit information from ministers If the cabinet is guilty of deviating from the democratic path, guilty of high crimes and misdemeanours, acts oppressively, wastes public money and disregards the wishes of the legislature, it can be severely censured and a vote of no-confidence can be passed against it A cabinet is forced to resign, when its continuation is not considered desirable by the legislature It must be remembered here that it is the parliament which votes money grants, which form the life-blood of the government By withholding grants, the proudest executive can be brought to its knees

8 Executive Subordinate to the Legislature

Cabinet under Parliamentary Control The cabinet system is based on the principle that the executive is subordinate to the legislature, that is, it is completely under the control of the legislature in administrative, financial and other matters Ministers have to respect the wishes of the legislature, and take it into their confidence They should be able to carry the legislature with them All the time, they should bear in mind that they are subject to Parliamentary control and that the roots of their power lie in the confidence of parliament

9 Party Government

Ministers of One Party A parliamentary government is essentially a party government, government is formed by the political party, which is able to secure a majority of seats in the legislature When the leader of the majority party forms the the cabinet he sees that the ministers belong to the ame party While selecting ministers it is not the technical or academic qualification of a person that is taken into consideration, but the party principle The prime minister desires that persons *belonging* to his party alone are given seats in the cabinet There may be in the legislature members of extraordinary capacity and calibre but the prime minister does not select them, as they do not belong to his party As the entire cabinet is composed of members of the same party, the government can function smoothly Cabinet system can function smoothly only in a country with a two-party system in which one party is in power and the other party is in the opposition

In case, no political party secures a majority of seats, the nominal executive chooses a prime minister, who is capable of leading a coalition of parties in the legislature.

However, a coalition government cannot have the stability of a one-party government

10 Joint Responsibility

Team Work Collective responsibility is another basic principle of the cabinet system The cabinet works as a team Ministers work together with perfect harmony and understanding They are singly and collectively responsible for running the government They plan their work together, and pursue common policies and principles They go through think and thin together, and swim and sink together

The legislature knows the cabinet in its collective responsibility All ministers have to speak before it with a single voice When ministers appear on the floor of the legislature, they present the same views and all pull in the same direction The prime minister brings about co-ordination in the work of the various ministers Ministers should defend the policies of the government on the floor of the house, and answer questions put by members of the opposition

In parliament or outside, ministers should not criticise one another and issue conflicting statements In case, there are differences of opinion between the prime minister and his colleagues, they have to be ironed out in utmost secrecy Ministers should not wash dirty linen in public, either they should patch up the differences with the prime minister or resign

When a minister proves himself to be incompetent, corrupt, generally negligent and not toeing the party line, the prime minister will ask him to resign In case the minister is intransigent, he shall be dismissed or the prime minister tenders the resignation of the whole council of ministers and reconstitutes the ministry dropping the stubborn minister

11 Role of Opposition

In the cabinet system, one party is in power, and the other party or parties are in the opposition The opposition plays an important role In Britain, the opposition criticises the cabinet, but it is also ready with a shadow cabinet to rule, if the existing government is ousted

C Prerequisites of Parliamentary Government

Parliamentary executive can function well only when certain essential prerequisites are found The following are the most important prerequisites

1 *Stable Majority in Legislature* As already stated, unless there is a stable majority in the legislature, a cabinet cannot hope to function smoothly according to the essential principles of the parliamentary system

2 *Dissolution of Legislature* There should be the possibility of dissolving the legislature In case the cabinet is unable to lead the legislature as it cannot command a clear majority, and there is never-ending tussle between the cabinet and the legislature, the Prime Minister can appeal to the electorate In other words, the Prime Minister can request the nominal executive to dissolve the legislature and hold fresh elections If the legislature is dissolved, the ministers will have to face the electorate which may or may not return them to power On the basis of the election results, a new council of ministers can be formed

In India, the *Prime Minister* may request the *President* to dissolve the Lok Sabha so that ministers may face the electorate and have a fresh mandate from it

3 *Spirit of* Tolerance *among Political Parties* Tolerance among political parties is another essential prerequisite of *parliamentary* democracy When a certain party secures a majority in the legis lature, and forms government, it must rule with moderation, and must be fair to the other parties The other parties similarly must create an atmosphere in which the government can function smoothly, though in good *faith* they *may* criticise the government from time to time on the floor of the house or outside parliament Generally, a two-party system in which one *is the* ruling party and the other party is the opposition is highly conducive to the working of cabinet government When there are too many parties as in France and India and when there is no strong opposition, cabinet system cannot work as it should Britain provides a fine model of cabinet system to the world with its excellent two party system

In India, there *are* several political parties Some of them have narrow aims and loyalties, and they do not show a spirit of tolerance

4 *Strong Opposition* Opposition is quite necessary for the success of the cabinet system Democracy is government by consent or criticism Cabinet government can be democratic only when the opposition is strong enough to criticise strongly and expose the ministers on the floor of the house for their serious mistakes of omission and commission, and if necessary throw out the ministry by a vote of no-confidence and form an alternative government The fear of being thrown out of office will make ministers discharge their duties satisfactorily

In India the Indian National Congress, which was returned to power in the four General Elections (1952, 1957, 1962 and 1967) with an overwhelming majority could have ruled the country better than it actually did had there been a strong opposition The absence of a strong opposition made [the Congress believe that it was infallible and could never be thrown out of power Congress ministers ignored the principle of joint responsibility and responsibility to the legislature Criticism of government in parliament and outside was ignored, and the grievances of the people were not redressed But in the fourth General Election (1967) about 100 Congress ministers were defeated in several states, and even in parliament the Congress could not secure a thumping majority as in the first three elections If parties like the Swatantra and the Jana Sangh come together to form a strong opposition, Indian democracy will have good prospects If the opposition is weak, the cabinet is likely to be lethargic, negligent and indifferent to the people's interests

In 1969, after the Bangalore Session of the Congress, on the question of nominating the Congress candidate for the Presidential election, the Congress broke into two factions (1) the faction led by Prime Minister Smt Indira Gandhi (nicknamed Cong-I or Indicate), and (2) the faction led by the Congress President Shri S Nijalingappa (nicknamed Cong-O or Syndicate) In the Lok Sabha, Dr Ram Subhag Singh, Shri Morarji Desai, Shri S K Patil and others of the Syndicate Congress sat on the opposition benches, and offered opposition to Smt Gandhi's Government

5 *A Titular Head* As mentoned in Section B, there should be a titular, nominal or ceremonial head to make appointments, to give continuity and sometimes advice or guide

In India, the President is the head of State, in Britain it is the King

D Evaluation

We shall now deal with the merits and defects of the parliamentary executive

Merits The following are the merits of the cabinet system

1 **Harmonious Relations between Executive and Legislature** As observed already, the cabinet system is based on the principle of fusion of powers If the pre-requisites of the cabinet form of government are found, *there can be healthy relationship* between the executive and the legislature and the wheels of government can move smoothly The cabinet bows down to the wishes of the legislature, and the legislature supports the cabinet fully whenever necessary, the legislature criticises it, and brings it to the path of rectitude There can be no deadlock, and in case one rises, the legislature can be dissolved

2 **Responsible Government Possible** The cabinet system makes a responsible government possible R G Gettell says, "The cabinet system is valuable also in placing the administration under direct and constant responsibility to the popularly elected chamber and therefore indirectly to the electorate itself"[1] A cabinet can not afford to be irresponsible even if it wants to be, as the opposition is ever ready to pull it down The fear of public criticism, the desire to keep the legislature in good humour and not to antagonise it, and the fear of the electorate goad a cabinet to function properly An inefficient and corrupt executive will be shown in its true colours on the floor of the legislature

3 **Flexibility and Elasticity** Unlike the presidential system, the cabinet system is flexible and elastic In the cabinet system, people are ready for a change in government, when the executive is found badly wanting *This is particularly so in times of emergency* or war While the President in the USA goes by the calendar, the Prime Ministers in Britain and India go according to the confidence of Parliament When Prime Minister Chamberlain proved his hollowness in Britain, the people put Winston Churchill in power After World War II ended, and Churchill's peculiar talents and ability were not needed, the people put power into the hands of the Labour leader, Clement Attlee

4 **Good Leadership Possible** Cabinet government gives a challenge to the political genius and ability of the people of a

1 *Political Science* (1956), p 220

country If we presume that a country has a fairly good cabinet, the first thing that strikes us is that good leaders come forward to be at the helm England and India are good examples Capable men aspire to be members of the legislature in a parliamentary democracy Even the members of the opposition will acquit themselves creditably in the legislature, as they hanker to be in the saddle in the future In the cabinet system, "statesmen advertise themselves for future and confirm themselves in present governments It brings forward men eager to speak, and gives them occasions to speak Everything which is worth saying, everything which ought to be said, most certainly *will* be said"[1]

Defects The following are the defects of the cabinet system

1 **Violation of the Theory of Separation of Powers** Though the implementation of Montesquieu's theory of separation of powers is not fully desirable or feasible, it is necessary to apply it in its proper spirit and see that legislative, executive and judicial powers are not located in the same hands But in the cabinet system there is a fusion of powers in flagrant violation of the theory of separation of powers

2 **Cabinet Dictatorship** The logical corollary of the violation of the theory of separation of powers is dictatorial power in the hands of the cabinet Given a stable majority and a divided and weak opposition in the legislature, a cabinet can wield powers, which even an autocrat or dictator may envy There have been examples of cabinets flouting public opinion, ruling arbitrarily and taxing people heavily and indiscriminately with the support of the majority party As the political parties function inside and outside a legislature, it is possible for a power-hungry leader to exercise unbridled power in the name of parliamentary democracy P H Sol[illegible] observes "Presenting a united front to the world, led by a man of commanding personality, and helped by an independent and efficient civil service, able to draw for [illegible] on the [illegible] available, a cabinet with a solid majority in parliament is [illegible] powerful It is a real governing body in the full[illegible] term, from whose decisions there is [illegible], [illegible] it need not fear an adverse vote in Parliament and [illegible] majority of the electorate, need [illegible] of public [illegible] against its proposals"[2]

1 Bagehot in Eckstein and Apter (Ed), Comparative [illegible]

2 An Introduction to *Politics* (19[illegible]) p [illegible]

In India since 1947, the features of cabinet dictatorship were evident with the Indian National Congress in brute majority and with a weak opposition in disarray at the Centre and in the States Gradually, the Congress Ministers at the centre and in the states made no difference between the government and the party Prime Minister Pandit Jawaharlal Nehru with his great popularity and charismatic leadership could govern dictatorially unhindered, though in a democratic set up Conditions changed after his death in 1964

3 **Governmental Instability** Few countries fulfil the pre requisites of cabinet government While England could have stable governments and do full credit to parliamentary democracy, the same cannot be said of other countries When the party system in a state functions unsatisfactorily, and there are many mushroom parties no stable government is possible and the state cannot progress

4 **Government by Amateurs** As ministers are generally appointed according to party principles and not according to their merit and aptitude, the standard of government may not be high They have to be members of the legislature, but no technical or educational qualification is necessary for one to be a minister It sounds strange that even the minimum qualifications laid down for a junior clerk s post in a government department are not necessary for a member of parliament to be a Union Cabinet Minister in India One is sometimes amused to find the appalling ignorance and inefficiency of ministers It is difficult for such ministers to direct work and get things done in their respective departments It is true that cabinet government is government by amateurs

5 **Party Control** In the parliamentary system, government comes under the control of the majority party, which can tyrannize over the country A cabinet is guided more by party considerations than by sound principles of administration Minis ters are likely to use their power and prestige to strengthen their party and weaken the opposition Government funds may be misappropriated or diverted towards party coffers During general elections, the party in power may use government money and material for winning seats Government trucks, cars, jeeps and helicopters may be used for electioneering contrary to the rules of election There cannot be good government when ministers devote all their attention to party affairs and turn a Nelsonian eye to the welfare of the people R G Gettell observes "It has also been

urged against the cabinet system that, where there are only two important parties, it places the entire control of the government in the hands of the majority party Partisan spirit is thereby intensified, and the opposition attacks the policies of the administration regardless of their merits, because that is the only way by which it can come to power"[1]

(For details on the Cabinet Government in India, please see Section F of this Chapter)

E Cabinet Government in England

Britain gave the model of the parliamentary system, as the USA gave the model of the presidential

While studying the Cabinet Government in Britain, we have to deal with the King, the Privy Council, the Cabinet and the Parliament with the ruling party and the opposition parties

1 The King

King Refers to Person, but Crown to Sum Total of the Governmental Powers In Britain, the King is the nominal executive The King is different from the Crown, the former refers to a person with certain formal and informal powers, and the latter to an abstract idea implying the government "The term, the Crown, represents the sum total of governmental powers and is synonymous with the executive" The King dies, but the Crown does not This is expressed by the saying "the King is Dead, long live the King" This means, "The King is dead, but long live the Crown"

Statute and Prerogative The statute and the prerogative constitute the two sources of the powers of the Crown, a statute is a law passed by Parliament, whereas prerogative is "that group of powers of the crown not conferred by statute but recognised by law as belonging to the Crown" For example, the Crown exercises the prerogative of summoning, proroguing and dissolving Parliament

A Titular Head There was a time, when the King was autocratic, but the Glorious Revolution (1688) put him in the proper place The King's power went on decreasing, and that of the Crown went on increasing, and finally the King became a titular head As the nominal executive, the King can do no wrong, and is not answerable for any act performed in his name All responsi-

1 *Political Science* (1956) p 292

bility has to be borne by the Council of Ministers, and no minister can take shelter behind the King

Symbol of Unity Fountain of Justice, Mercy and Honour The King is the symbol of unity He is the head of the State, the church, the army, the navy, the air force and the law He is also considered as the fountain of justice, mercy and honour The King (or Queen) is the head of the Commonwealth and the golden link of the Empire

Influence The king can wield much influence by his personality He has the right to advise, warn and encourage Queen Victoria could command very great influence over the cabinet George V also showed that the King was no mere figure head

In 1957, Queen Elizabeth II had an opportunity to act and use her own discretion, when the Conservative Prime Minister Anthony Eden resigned after his abortive efforts to coerce Egypt, which had nationalised the Suez Canal As the Conservative Party (which was in majority) had not elected the leader, Queen Elizabeth after consulting Sir Winston Churchill and Lord Salisbury asked Harold Macmillan to form ministry, though R A Butler was also aspiring for Premiership Thus the Queen's influence was decisive

As the English people are conservative, and the King has no real power, monarchy is continued in England The English people, who have emotional and sentimental attachment to it value it as the symbol of unity

2 The Privy Council for Consultation

For Consultation The King consulted a council called the Privy Council As time passed, the Privy Council became too large and unwieldy, and therefore the King chose to consult only a few trusted councillors (This practice provided the basis for the rise of the Cabinet At present all policies are made by the Cabinet and not by the Privy Council, though the latter also has some important functions)

The Privy Council is a large body of about 300 members, while the Cabinet has about 20 members only It consists of all ministers of the Cabinet, members of the royal family, the Archbishops of Canterbury and York, Lord Justices of Appeal, the Speaker of the House of Commons, Prime Ministers or representatives of Dominions and others

No More an Important Body The Privy Council meets in a plenary session very rarely But the Privy Council meetings are held often and Orders-in-Council are passed Very few members attend it, and the quorum is only three The work of the Privy Council is done through its various standing committees The Lord President of the Council is a cabinet minister Ogg and Zink point out "Be it noted, however, that the Privy Council is no longer an initiating, deliberative or advisory body, indeed it has not been since the days of Queen Anne Its functions of this character have been absorbed to some extent by the departments "[1]

3 The Cabinet

Steering Wheel The British Cabinet is the product of a long process of evolution It is the real executive, wielding high voltage power in the true sense Ramsay Muir regards it as "the steering wheel of the ship of state", and in Lowell's words it is "the keystone of the political arch" To quote Marriott, it forms "the pivot round which the whole political machinery revolves"

Functions *It functions according to the following principles*

(1) The King does not preside over cabinet meetings

(2) Normally, members of the Cabinet are selected from the majority party in the House of Commons

(3) The Cabinet is politically homogeneous

(4) The principle of collective responsibility is followed

(5) The Prime Minister is the chief of the Cabinet

The functions of the Cabinet according to the Haldane Committee Report (1918) are the following

(a) to formulate policy to be submitted to Parliament,

(b) to exercise supreme control of the national executive according to the policy laid down by Parliament, and to bring about co-ordination and delimitation of the activities of the various departments

Prime Minister from House of Commons The selection of the Prime Minister is made by the King at present from the House of Commons and not from the House of Lords Ivor Jennings points out "No peer has been Prime Minister since the resignation of Lord Salisbury in 1902 In 1923 the

[1] *Modern Foreign Governments* (1957), p 71

whether it was then possible for a peer to become Prime Minister, was definitely raised "[1] Though Lord Curzon the leader of the Conservative Party expected to be appointed Prime Minister, King George V chose Stanley Baldwin a member of the House of Commons As a member of the House of Lords, Curzon could not appear in the House of Commons and lead the House Hence, practical considerations dictated the choice of Baldwin

In 1963, a great change was made by the New Peerage Act allowing a peer to give up his peerage and become member of the House of Commons Lord Home surrendered his peerage and became a commoner As Sir Alec Douglas Home, he became Prime Minister

Prime Minister Leader of Majority Party If there is a single party, which can command a majority in the House of Commons, the King chooses the leader of this party, as Prime Minister, for he has no other choice Ivor Jennings says 'The range of choice is necessarily limited by political conditions The Prime Minister must be able to secure colleagues and, with his colleagues, he must be able to secure the collaboration of the House of Commons Frequently there is no choice at all "[2] The choice becomes difficult, when no party commands a majority Then the King selects a person, who he thinks, has good chances of having the support and confidence of Parliament Here the King can make use of his discretion in the interests of a stable government

Choice of Ministers The person, who is appointed Prime Minister by the King chooses about sixty persons as ministers About twenty of the more important colleagues form the Cabinet The chosen names are recommended to the King, who makes the appointments formally,

Wide Powers and Responsibilities The Prime Minister's responsibilities are heavy, and he exercises wide power and patronage As Morley says, he is the keystone of the cabinet arch The Prime Minister is

(1) the leader of his party,

(2) the leader of the House of Commons and

(3) the chairman of the cabinet and coordinator of policy [3]

1 *Cabinet Government* (1959) p 23

2 Ibid p 20

3 Ibid pp 173-107

The Prime Minister presides over cabinet meetings In the past till 1714 the King used to preside, but since that year, George I, a Hanoverian not knowing the English language ceased to preside over the cabinet meetings, thus leaving the field clear to the Prime Minister J A Corry observes "The Prime Minister's pre-eminence is evident at every turn He is the channel of communication between the Cabinet and King In sudden emergencies that do not give him time to consult the cabinet, he will act on his own initiative Particular minister after consulting him will often take decisions that would not risk on their own judgment The House of Commons and the country expect him to make all important statements of policy"[1] By virtue of his position, he can command very wide powers

Ministers of the Crown Act, 1937 The cabinet was not known to law till the Ministers of the Crown Act, 1937 This Act recognised the position of the Prime Minister and fixed his salary of £ 10,000 annually All ex-Prime Ministers are provided with a pension of £ 2,000

Cabinet Smaller than Ministry The terms 'Cabinet' and 'Ministry' are not synonymous The Cabinet is smaller than the Ministry All Cabinet Members are Ministers, but all Ministers are not Cabinet Members The Cabinet can be regarded as the inner circle of Ministry consisting of the most important Ministers While the entire Ministry may have about 60 members, the Cabinet has only about 20 The Ministry never meets as a body, whereas a Cabinet meets and deliberates from time to time

Types of Ministers There are four types of Ministers

(a) Heads of Departments like the Chancellor of the Exchequer

(b) Very important officials like the Lord Chancellor who are not heads of departments,

(c) Junior Ministers and Parliamentary Secretaries, and

(d) Five members of the royal family who are given Ministers' ranks

4 The Opposition

Payment to Leader of Opposition The Opposition Party known as His Majesty's Opposition plays a vital role in the British Cabinet System According to the Ministers of the Crown Act, 1937, the leader of the Opposition is provided with a salary of £ 2 000 annually This shows the importance attached to the

1 *Democratic Government and Politics* (1958) p 167

Opposition in the British parliamentary pattern The Opposition aims at overthrowing the Government and the important personalities in the Opposition form what is known as the Shadow Cabinet

In Britain, cabinet government functions smoothly as the Government and the Opposition reach common agreement regarding important matters In view of the fact that the Prime Minister works in collaboration with the leader of the Opposition G B Shaw wittily remarked "The English Prime Minister knows the leader of the Opposition better than he does his his own wife"

F Merits and Defects of the Parliamentary System in India

President like British King In India, the President is the formal head of the state He is indirectly elected by an electoral college He enjoys, technically speaking, very wide executive, legislative, financial and judicial powers He can also exercise emergency powers The Constitution does not say that the President is forced to act on the advice of his Ministers, but India follows the British pattern, and the President is a titular head, who has to act only on the advice of the Prime Minister Dr B R Ambedkar remarked that "the President occupies the position as the King under the English Constitution'

The President makes appointments, declares emergency and pursues any course of action according to the advice of the Prime Minister He is the nominal executive, whereas the Union Council of Ministers with the Prime Minister as chief is the real executive The three Presidents, the late Dr Rajendra Prasad, Dr S Radhakrishnan and the late Dr Zakir Husain acted as titular heads according to ministerial advice In Britain, several conventions have been evolved by monarchy But India s presidentship is yet to evolve them

Union Cabinet The Constitution makes provision for a Union Council of Ministers with the Prime Minister as the head After the general elections, the President appoints the leader of the majority party in the Lok Sabha as the Prime Minister, and the other ministers are appointed by the President on the re ommendation of the Prime Minister Actually, ministers are selected by the Prime Minister The ministers may be members of the House of the People or of the Council of States The Union Council of Ministers is collectively responsible to the Lok Sabha

Observations on the Actual Working of the Indian Cabinet System We can pass favourable as well as unfavourable remarks on the actual working of the cabinet system in India

Favourable Remarks The following favourable remarks can be made on the Indian cabinet system

(1) **Councils of Ministers** At the Centre and in most of the States, the Councils of Ministers functioned well and following the British model, they respected the provisions of the Constitution (1950) The Prime Minister at the Centre and the Chief Ministers in the States were by and large conducting themselves according to parliamentary rules and traditions

(2) **President and Governors** The President at the Centre and the Governors in the States played their respective roles as titular heads according to the provisions of the Constitution

(3) **Legislatures** The various legislatures in India (Parliament at Centre and the different unicameral or bi-cameral State Legislatures) as a rule functioned properly and effectively, upholding the principles of parliamentary democracy

(4) **Speakers and Chairmen** Speakers of the Lower Chambers and the Chairmen of the Upper Chambers conducted themselves with decorum, dignity, patience and restraint, while presiding over the respective houses

Unfavourable Remarks India does not have all the most essential pre-requisites of parliamentary democracy An impartial observer who desires neither to run down nor flatter India's parliamentary democracy has to make certain unfavourable observations

(1) **No Two Party System** India does not have the two-party system as in Britain, and so far the country has failed to produce one either at the Centre or in any of the States This has led to "cabinet dictatorship" with all its evil corollaries In the Lok Sabha, there are opposition "groups" and not an effective opposition "party" After the break up of the Congress into two factions, an opposition party with Dr Ram Subhag Singh as leader emerged in 1969, but it is yet to be seen how this opposition party functions in the service of parliamentary democracy Petty parties without principles and programmes are proliferating like mushrooms

(2) **Lure of Power** Lure of power and power for its own sake have led to several undesirable consequences Leaders who are after power do not observe the rules of the parliamentary system, whether they are in the government or on the opposition side

(3) Certain Political Parties Badly found Wanting Certain political parties in India do not fit into the parliamentary pattern. For instance, the Communist Party of India and the Communist Party Marxist have no respect for parliamentary democracy They have developed extra-territorial loyalties, and are wedded to the creed of violence

(4) Miserable Performance of United Fronts In certain States, particularly Kerala and West Bengal, there has been a woeful lack of political stability No party has been able to give a good and stable government In Kerala, the Unit Front headed by E M S Namboodripad fell in 1969, and in West Bengal, the Chief Minister Ajoy Kumar Mukherji (leader of the Bangla Congress) heading a United Front of 14 parties tendered his resignation in March 1970 In West Bengal, with the rise of the powerful Naxalite movement and of the violent activities of Communist Marxists, people find their lives and property in danger

(5) Party Defections Certain individuals have betrayed the electorate and the political party to which they belonged by defection not for the sake of principles, but for seizing power somehow Some members of legislatures have crossed and recrossed floors again and again Chief Ministers in certain States have encouraged defections, and party bosses too have done the same. Sometimes, Chief Ministers fearing defections from their own parties created new ministerial posts to prevent the mischief In expanding state cabinets, the primary consideration was of sticking to power The heavy burden on the exchequer and the moral harm done to the cause of parliamentary democracy did not count at all

(6) Game of Toppling Ministries Of late, particularly after the split in the Congress, the game of "toppling' Ministries has become truly dangerous to the cabinet system The Congress faction led by the Interim Party President C Subramanium in 1969 and later by the Party President Jagjivan Ram (since the end of 1969 when the faction held its session in Bombay) has been encouraging defections for the sake of "toppling" State Ministries It was alleged as reported widely by newspapers and magazines that the Prime Minister Smt Indira Gandhi and her supporters in the Congress faction (nicknamed Indicate) desired to ' topple" the State Ministries in the Uttar Pradesh, Gujarat and Mysore, as these supported the other Congress faction led by S Nijalingappa and others (nick named the Syndicate)

Early in 1970, the UP Ministry headed by Chandra Bhanu Gupta was forced to resign The "Indicate" desired Kamalapati Tripathi to be the Chief Minister, but another UP leader Charan Singh (of the Bharatiya Kranti Dal) played his cards better than Gupta and Tripathi, and thus he was able to secure the Chief Ministership All genuine lovers of parliamentary democracy felt disgusted at the manner in which the Gupta Ministry was "toppled" and the new Ministry of Charan Singh came to power in UP

Defection has become a curse, and unless this is curbed, the future of parliamentary democracy will be bleak

(7) Weakening of Ruling Party at Centre and Functioning of an Undeclared Coalition The Congress Party to which Prime Minister Smt Indira Gandhi belongs finds it difficult to rule at the Centre, as several Congressmen have moved to the opposition side which is led by Dr Ram Subhag Singh The opposition Congres men with the possible support of the Swatantra Party and the Jana Sangh desire to pull down Smt Gandhi's Ministry on the other hand Smt Indira Gandhi wants to remain in power at all costs, including at the cost of wholesome parliamentary principles Her critics allege that she heads an undeclared coalition on the ground that her government could survive in the Lok Sabha only with the help of the Communists, the members of the Dravida *Munnetra Kazhagam and others*

While the author does not wish to take sides here, he is compelled to criticize the craze for power and the total lack of respect for decent and healthy principles of parliamentary democracy

It was alleged that many members of the Lok Sabha decided to support Smt Gandhi because they were scared that she might advise the President to dissolve the Lok Sabha so that she might seek a fresh mandate from the electorate The desire to be in *their seat till 1972 and the possibility of losing in the mid-term* elections (to contest in which much money has to be spent) prompts several members to give their unqualified support to Smt Gandhi *Here again, the attitude of these members is deplorable*

(8) Indiscipline Indiscipline and violence are on the increase in India In Parliament and in several State Legislatures, some members show total lack of discipline They violate the rules of procedure, disobey the orders of the chair and deliberately work for creating pandemonium The ex-speaker of the Lok Sabha Shri Hukam Singh and the present Speaker Shri G S Dhillon

have expressed deep sense of regret at the happenings in the Lok Sabha

Desire for Presidential System The drawbacks in India's parliamentary system have created a sense of frustration among those who favour parliamentary democracy In sheer disgust, some people say that the presidential system would have been better for India

MAIN POINTS

1 **Meaning of Parliamentary Executive** Real executive responsible to legislature Nominal executive to act according to the advice of the real executive.

2 **Features** 1 Nominal and Real executives the former giving continuity to state Real power in cabinet enjoying confidence of legislature. 2 Real executive drawn from and responsible to parliament 3 Link between real executive and legislature 4 Cabinet a hyphen that joins and buckle that fastens. 5 Lead of the Prime Minister 6 Political homogeneity 7 Cabinet responsible to legislature 8 Executive under the control of legislature 9 Party government 10 Joint responsibility 11 Role of opposition

3 **Pre requisites** 1 Stable majority in legislature 2 Possibility of dissolution of the legislature 3 Spirit of tolerance among political parties 4 Strong opposition 5 A titular head

4 **Merits** 1 Harmonious relations between executive and legislature 2 Responsible government possible 3 Flexibility and elasticity 4 Scope for good leadership

5 **Defects** 1 Violation of theory of separation of powers 2 Cabinet dictatorship 3 Government instability 4 Government by amateurs 5 Party control and tyranny

6 **Cabinet Government in England** 1 King Difference between Kin and Crown King refers to person and crown to totality of government powers King symbol of unity fountain of justice mercy and honour Commands influence 2 Privy Council Now powerless 3 Cabinet Steering wheel of the ship of state Keystone of the political arch Wields wide powers Prime Minister from House of Commons Chooses ministry Prime Minister leader of majority party Cabinet smaller than Ministry four types of ministers

7 **Cabinet System in India** President nominal executive and cabinet real executive After the English model

Merits (1) Good work of ministries at the Centre and in the States (2) Fine record of legislatures (3) Role of President and Governors (4) Role of Prime Minister and Chief Ministers

Defects (1) No two-party system (2) Lure of power (3) Defects in political parties (4) Miserable performance of united fronts (5) Party defections (6) Game of toppling Ministries (7) Weakening of ruling party at the centre.

CHAPTER 54

PRESIDENTIAL AND OTHER TYPES (THE SWISS AND THE USSR) OF EXECUTIVE

I Presidential Executive

A Definition and Meaning of Presidential Executive

Executive Constitutionally Independent of Legislature While in the cabinet system the real executive is responsible to the legislature, in the presidential system, the executive is not under the control of the legislature J W Garner says "What has been called *presidential* government, as contra-distinguished from cabinet or parliamentary government, is that system in which the executive (including both head of the state and his ministers) is constitutionally independent of the legislature in respect to the duration of his or their tenure and irresponsible to it for his or their political policies"[1]

Non-responsible Executive Combining Head of State and Head of Government The presidential executive is also called non responsible or fixed executive While the executive in the parliamentary system is drawn from the legislature and is responsible to it, the presidential executive is neither drawn from the legislature nor responsible to it In the presidential system, the head of the state is also the head of the government "The term *presidential* has been chosen because in this system the offices of head of government and head of state are combined in a President The term is as expressive as *parliamentary* was to describe the system where the Government and Assembly are fused in a parliament"[2]

B Features of the Presidential Executive

The following are the main features of the presidential system

1 *Head of State Real Executive* In the parliamentary system, there are two types of executive nominal and real In the presidential system, there is only one executive and that is real The

1 *Political Science and Government* (1951) p 311

2 D V Verney in Eckstein and Apter *Comparative Politics* (1963) p 185

head of the state is not only the *chief* executive, but the executive The President of the USA is a good example

2 *Elected by People* The presidential executive is not hereditary or nominated, but elected by the people The President of the USA is elected indirectly by the people through an electoral college

3 *Executive not Member of Legislature* While ministers in England have to be members of the legislature, the US President is not, in fact he should not be Here the principle of separation of powers is followed, while Britain follows the principle of fusion of powers

4 *Fixed Tenure* The executive has a fixed tenure before the expiry of which he need not quit For instance, the term of the President of the USA goes by the calendar Till the end of four years, the President continues in office (In Britain and India the cabinets remain in power only as long as they enjoy the confidence of the legislature)

5 *Not Responsible to Legislature* While in the parliamentary system the real executive is subordinate and responsible to the legislature and can remain in office only as long as it commands the confidence of the legislature, in the presidential system the executive is neither responsible nor subordinate to the legislature, and its tenure is independent of the wishes of the legislature The status of the executive is coordinate with the legislature The legislature is not empowered to control and direct the executive

6 *Separation of Powers* In the parliamentary system, the principle of fusion of powers is followed in the presidential system the principle of separation of powers is applied Unlike the parliamentary executive, the presidential executive is neither the member of the legislature nor present in the legislature to initiate and pilot bills The executive cannot be compelled to resign by the legislature, though its policies may be contrary to the wishes of the legislature The legislature at the most can impeach the president for high crimes and misdemeanours but normally this does not happen In the same way the executive cannot dissolve the legislature

7 *Ministers Subordinate to President* In a presidential system the ministers are the subordinates of the President For instance, ministers in the USA are clearly inferior to the President in status, whereas the ministers in the British Cabinet are supposed to be colleagues of the Prime Minister, who technically is *the first among*

equals Again, the President's ministers or secretaries do not hold collective responsibility with him They are not members of the legislature, and the question of their responsibility to the legislature does not arise They are appointed or dismissed by the President as he likes The President is responsible only to the people, and he has to bear full responsibility for all policies He cannot throw the blame either on his secretaries or on the legislature

C Merits of the Presidential Executive

The following are the merits of the presidential system

1 **Continuity of Policy** As the term of the executive is fixed and need not depend upon the mercy of the legislature, the executive can plan well for its full term, and can have a proper continuity of policy and stability Planning can be made with great confidence, and policies can be effectively pursued without the fear of antagonising the legislature

2 **Prompt Decisions** The presidential executive can take decisions with energetic promptitude Power is concentrated in the hands of the executive, which does not share it with anyone As it is not responsible to the legislature and need not waste time in consulting, prompt and vigorous action can be taken This is particularly evident during times of emergency R G Gettell observes "The presidential system places large powers and concentrated responsibility in the hands of the executive, and has certain value in time of war or national crisis It guarantees stability of administration for a period of years, and is energetic and powerful, because it is relatively free from the hesitation and disagreement that often accompanies a plural executive"[1]

3 **Selection of Capable Men** There can be a highly efficient administration, as the executive is free to select the type of men, who alone can effectively execute his policies He need not choose men from his own party as his secretaries On the other hand, the prime minister in the parliamentary system finds it difficult to choose his colleagues He has to please members of his party by selecting ministers from the party, though exceptionally competent hands may be available outside the party Selection of ministers solely on the basis of party consideration impairs the efficiency of administration and sets the ball of degeneration rolling In India, for instance, both at the Centre and in the States, there has been progressive deterioration, as ministers were chosen with

1 Political Science (1956) p 222

a view to please the party bosses of the Congress The President on the other hand can select people on the basis of merit, irrespective of party consideration

4 **Good for Countries with Diverse Groups** The presidential *system is good for countries in which it is not possible* to have a well-shaped two party system on which the success of parliamentary government depends The formation of the two party system is almost impossible in countries inhabitated by different types of communities and groups widely differing from one another, and to such countries the presidential system is quite suitable As there are several parties in India, and as some parties do not *have national principles and policies or respect for democratic* methods, some would like India to have the presidential system for a stable administration In recent years, defections and other evils have shaken parliamentary democracy in India to its very foundations

5 **Not under Shadow of Parties** The presidential system is not under the evil shadow of political parties with their sinister influence The evils of the party system very much in *evidence* in the parliamentary system do not dominate the presidential In the parliamentary system, government is controlled by the party, decisions are taken and appointments made on the party basis, and administration suffers before the altar of the party

D Defects of the Presidential System

The following are the defects of the presidential system

1 **Harmonious Working Difficult** In the presidential system, the harmonious working of government is difficult By applying the principle of separation of powers the executive is divorced from the legislature, and government disintegrates into watertight compartments Gettell says ' When legislature and executive are of different parties, there is constant danger of deadlock When the executive and the legislature are at odds, each can shift the responsibility to the other, and nothing can be accomplished until a new election, which may be some time distant, brings relief Each department is jealous of the other, and frequent conflicts *as to the scope of their respective powers are likely to arise* "[1]

2 **Difficulty of Executing Policies owing to Legislative Bottleneck** The executive in the presidential system may find his

1 Ibid p 223

hands tied, as the legislature may be unwilling to pass the required legislation On the other hand, in the cabinet system, the executive itself initiates legislation, whenever it needs particular laws to strengthen its hands or to facilitate administration In the presidential system, the executive must remain satisfied only in sending messages to the legislature, but the legislature may not oblige, and the executive may be rendered helpless The type of handicap from which the American President has to suffer is not experienced by the Indian and British Prime Ministers

3 **Dictatorial Power** The executive in whose hands vast power is concentrated may abuse authority and become dictatorial In the parliamentary system the legislature, which controls the executive, may even drive out the executive from authority, if it turns irresponsible and autocratic But the presidential executive can go on working arbitrarily without the least fear of the legislature There is practically no remedy for presidential dictatorship till the term of the executive completely runs out J W Garner says ' It is true that theoretically he is responsible to the electorate for the manner in which he exercises this mandate, but in the absence of provision for a popular recall there is no way by which it can be enforced Manifestly the refusal to re-elect the President after several years of misgovernment is no effective enforcement of responsibility "[1] E B Schulz, who also dwells on the evil of unbridled power without responsibility observes "The fixed terms of service which are characteristic of a separation-of-powers arrangment also curtail responsiveness to public opinion, particularly, if long rather than short terms are provided There is no continuous accountability of the executive to the representatives of the people in the legislature, as under the cabinet-parliamentary system, or of the executive and the legislature to the electorate "[2]

4 **Difficulty in Pursuing Foreign Policy** The presidential executive finds it difficult to follow a consistent and vigorous foreign policy, as there is no harmonious relationship between it and the legislature The executive may follow a policy, which the legislature may be in no mood to support President Woodrow Wilson, a man of great power and influence was not supported by the legislature in his policy concerning the League of Nations

1 *Political Science and Government* (1955) p 395

2 *Essentials of Government* (1961) p 248

Wilson, the idealist President, who wanted the USA to be a member of the League was sadly disappointed, when the Senate refused to ratify his stand

5 **Rigidity** The presidential system suffers from the defect of rigidity The parliamentary system has the advantage of flexibility, which enables it to adapt itself to the changing times For instance, in the cabinet system during war or a great emergency, general elections may not be held but in the presidential, rigid rules make the holding of elections obligatory

E The Presidential System in the USA

Why Presidential System It may be worthwhile to briefly take note of the factors which created the non-responsible system in the USA The founding fathers of the American Constitution, who had fought against George III's Government did not have a good opinion of the British party system, which they felt was injurious to American national unity and solidarity Moreover, as the principle of separation of powers had captured their imagination, they strongly desired to put governmental powers in black and white so that each organ would strictly adhere to its own sphere without encroaching on the domain of the other organs J W Garner says "The late President Wilson expressed the opinion that they did not introduce it because it was in more or less disrepute in America and because it possessed many features which did not invite republican imitation To most Americans, he said, the English Constitution was that of George III and Lord North rather than that of the Whigs, while the ministry was looked upon as coterie of royal favourites who were controlled by the Crown rather than by the House of Commons"[1] These factors militated against the introduction of the parliamentary form in the USA, and the only alternative open to the Americans was to have the presidential system The Americans with their fresh vigour and enthusiasm wanted to be pioneers of the presidential system in a federal set-up on a large scale

1 The USA President—Qualifications and Powers

Qualifications and Election The US President must be

(a) a natural born citizen of the USA,

(b) at least thirtyfive years of age and

(c) a resident of the USA for 14 years

1 *Political Science and Government* (1855) p 397

The President is indirectly elected by an electoral college in which each State chooses a certain number of electors equal to the number of Senators and representatives in the Congress from the State concerned At present the electoral college consists of 538 members, and the President needs 270 votes The electors from each State meet in the State, and give their votes to two persons one of whom must be outside the State of the electors The candidate securing the highest number of votes is to be President, and the one scoring the next highest is to be Vice-President

In case no candidate for presidentship gets a majority, the House of Representatives should select by States (each State to have one vote) from the three candidates at the top

Though technically the election is indirect, practically it is direct In the USA, parties have come to stay, and each party selects its candidates, and the electors are elected on a party basis The electors will vote for a particular candidate, and virtually therefore the election of certain electors means vote for a particular presidential candidate

Salary and Immunities The President's salary which was originally 75,000 dollars annually was increased to 1,00,000 dollars plus 50,000 dollars tax free for expenses and 40,000 dollars tax free for travel In January 1969, President Richard Nixon's salary was raised from 1,00,000 to 2,00,000 dollars

The President cannot be arrested for any offence, and is not to be summoned before any court Only when he is dismissed from office by impeachment, he forfeits his immunities

Powers The following are the important powers of the President, as laid down by the Constitution, by the Acts of the Congress, by the interpretations of the Supreme Court and by custom and usage

1 **Executive Powers** The President as the highest executive in the USA enjoys the following executive powers

(a) **Making Appointments** The President commands the highest patronage in the country All executive officers of the federal government are appointed by him with the approval of the Senate All officers appointed by him can be dismissed by him But federal officers in the various States are appointed with the consent and according to the wishes of Senators of the States concerned This is regarded as "Senatorial courtesy" Such conventions must be respected by the President

(b) Control of Armed Forces The President is the commander-in-chief, and looks after the defence of the country He cannot declare war without the approval of the Senate, but by pursuing certain provocative policies and assuming aggressive postures, he can lead the country to war, and the Senate will be compelled to toe the Presidential line Once a war breaks out, the President can wield almost unlimited power

(c) Conducting Foreign Relations He conducts foreign relations and makes treaties subject to the ratification of the Senate

2 Legislative Powers The following are the legislative powers of the President

(a) Vetoing Bills The President can veto a bill within ten days, after it goes to him, but if the vetoed bill is passed again by a two thirds majority in each house, the President's veto is nullified, and he is compelled to give his assent But the President can exercise "pocket veto" He can withhold assent to a bill within the stipulated period of ten days with a view to see that it lapses This veto becomes effective, when the Congress adjourns, and the bill cannot be passed again Regarding constitutional amendments, the presidential veto does not work

(b) Sending Messages to Legislature Though the President as a contrast to the Prime Minister of Britain is not a member of the Congress, and cannot introduce bills, he can send messages to the Congress explaining his stand and expressing the need to have certain types of laws Presidents like Woodrow Wilson and F D Roosevelt appeared personally before the Congress to deliver their messages The President may apply pressure on the legislature through his party in the Congress He may even send drafted bills for the consideration of the legislature

(c) Issuing Ordinances The President is empowered to issue ordinances i e orders and regulations, which are as effective as laws

3 Judicial Powers

Granting Pardon The President has the power to grant, reprieve or pardon to any person for the commission of any offence before a court convicts him or later He is also empowered to grant amnesty to a group of persons

Great Power with Tremendous Responsibility The President of the USA exercises real power in contrast to the King in Eng-

land and the President in India Sir Henry Maine points out that the USA President governs, though he does not reign The President's post is one of the most coveted in the world, for besides enjoying the hishest powers and prestige in the USA, the President commands worldwide influence But with vast power goes tremendous responsibility "The Presidency has been described as the most difficult job in the world, and without parallel in the social history of mankind While kings, emperors and dictators have all had their burdens of sovereignty, none has been fettered, on the one hand, by the moral and constitutional restraints of an American President nor weighted on the other by global obligations'[1]

In the twentieth century, the USA came out of her isolation, and took increasing interest in world affairs After the end of World War II, when the USA became a Super Power, and Britain, comparatively speaking, went into the backwaters, the responsibilities of the President further increased, and this also meant further expansion of Presidential powers With the emergence of political parties the President has become a party leader as well as the leader of the nation The examples of Presidents like Abraham Lincoln, Theodore Roosevelt, Woodrow Wilson, F D Roosevelt, Harry Truman, John Kennedy, Lyndon Johnson and Richard Nixon bear witness to this J A Corry observes "At every turn eyes are focussed on the President His constitutional powers are not at all equal to what he is expected to do But the facts that everyone listens when he speaks, and that he can reach everybody through the radio and press conferences, often give him decisive influence where he lacks power The White House has been called the biggest pulpit in the country"[2]

No Specific Provision for Emergency In India, the Constitution has made special provision for dealing with emergencies, during which the President assumes extraordinary powers But in the USA no such special provision has been made When extraordinary situations develop the President makes use of his military power and sees that all laws are enforced properly, or the Congress may delegate emergency power to him

2 The President and His Cabinet

Secretaries Subordinate to President and Their Advice not Binding on Him Strictly speaking, it is wrong to speak of the

1 *Span* (January 1964) p 14
2 *Democratic Government and Politics* (1958) p 162

President's cabinet, it is really a council of departmental secretaries, who are appointed or dismissed according to the will of the President The secretaries are all responsible to him and not to the Congress They are not members of the Congress The so-called *cabinet came into being not by constitutional provision* but by custom, in other words, it is extra-constitutional and extra-statutory Constitutional custom has clearly shown that the President has real power and his secretaries are there only to carry out his wishes The term 'cabinet' came into use by 1793, and President George Washington was responsible to give shape to it by consulting four secretaries, whom he regarded as his confidential advisers The President consults his secretaries, but their advice is not binding on him On certain issues votes may be taken, but even if all vote against the stand of the President, it means nothing, for he can override the opinion of all As Abraham Lincoln put it, "Seven nays, one aye, the ayes have it" It is proper to describe the cabinet as the President's instrument or his family

No Constitutional Provision for Departments *The constitution* makes no provision for departments of administration The Congress sets departments and commissions The several administrative departments have risen as a result of laws passed by the Congress At present, there are ten departments E B Schulz says "In spite of its *shortcomings*, the presidential congressional plan has proved reasonably satisfactory in the United States at the national level Its successful operation probably is attributable to the growth of presidential leadership and to the unifying effects of party government These developments have tended to offset inherent structural weaknesses"[1]

II The Executives in Switzerland and the USSR

We studied the parliamentary and presidential executives Now, let us deal with other types of executive

A The Executive in Switzerland

Features The following are the features of the Swiss executive

1 Plural Executive (Federal Council of Seven) The Swiss executive is plural It consists of seven members and is known as Federal Council It has features, which make it different from the so-called cabinet of the US President and the cabinet in Britain or India

1 *Essentials of Government* (1961) p 251

2 **Election by Legislature** The seven members of the Federal Council are elected for a term of four years by the two houses of the legislature at a joint sitting

3 **Weak President** The Swiss President is not so powerful as the American President or the British and Indian Prime Ministers He is not substantially stronger than the other members of the Federal Council, and he cannot really lead them He is nominated by the Federal Assembly for a year, and he is to function as a mere Chairman

4 **Councillors not Members but Appear before Legislature** Members of the Federal Council are not members of the legislature, but they can appear in both houses participate in the debates and answer questions of members They however do not formulate a policy of their own and cannot vote C F Strong observes "Thus the Swiss Council of Ministers is, at first sight a parliamentary executive in a very emphatic sense But if we look more deeply into its working, we find that it turns out in practice to be fixed "[1]

5 **Councillors not Party Leaders but Administrators** Councillors are not leaders of parties, and they are elected primarily for their capacity as administrators Each of the seven Councillors is the head of a department The departments are the following

(a) Foreign Affairs,
(b) Interior,
(c) Justice and Police
(d) Military,
(e) Finance and Customs,
(f) Agriculture Commerce and Industry, and
(g) Posts and Railways

Strong says "The ministry has no party work, and it does not determine the policy of the various parties in the houses Its business is purely administrative, being concerned chiefly with such federal affairs as the collection of national revenue and the management of national undertakings such as railways "[2]

6 **Subordinate to Legislature** Like the British and Indian real executives, but unlike the American executive, the Swiss executive is subordinate to the legislature

1 *Modern Political Constitutions* (1958) p 256
2 Ibid p 247

Combination of Parliamentary and Presidential Systems Thus the Swiss executive is neither fully parliamentary nor presidential It combines the features of both E B Schulz says "The Swiss type of government resembles the cabinet parliamentary system in that both provide for an executive of the plural variety and both are based on the theory of legislative supremacy But unlike the cabinet-parliamentary government, the Swiss executive council serves a fixed term regardless of legislative reaction to its proposals and to its administrative performance"[1] The Federal Council does not work on a party basis, it reflects all kinds of opinions The executive does not uphold any particular party, it adopts a non-partisan attitude, and tries to settle the disputes between parties

B The Executive in the USSR

The USSR is a one party totalitarian state, and all institutions are under the nomination of the communist party This has to be borne in mind while studying the Soviet Constitution

The parliamentary and presidential executives are single, but the Soviet executive is plural

1 The Presidium

Collegiate Executive Responsible to Supreme Soviet The Presidium, the Plural Presidency of the USSR is a peculiar institution not found in Western democracies or in countries adopting them It is a collegiate executive consisting of 33 members (chairman, 16 vice-chairmen, a secretary and 15 members) elected at a joint session of the Supreme Soviet (legislature) for a period of four years

When the Supreme Soviet is dissolved, this body also is dissolved The Presidium is responsible to the Supreme Soviet

Executive, Legislative and Judicial Functions As the Presidium enjoys not only executive, but also legislative and judicial functions, it goes against the theory of separation of powers The powers and functions of the Presidium are the following

(1) It summons the Supreme Soviet twice every year, and when there is discord between the Soviet of the Union and the Soviet of Nationalities it dissolves the Supreme Soviet and orders for fresh elections

(2) It issues decrees, which are as effective as laws

1 *Essentials of Government* (1961) p 273

(3) It interprets laws

(4) It can cancel the decisions and orders of the Council of Ministers and of the Union Republics

(5) It can release and appoint ministers during the intervals between sessions of the Supreme Soviet

(6) It can also proclaim a state of war, when the Supreme Soviet is not in session

(7) It appoints and dismisses the high officials of the armed forces

(8) It deals with foreign affairs

(9) It grants pardons

Chairman of Presidium The Chairman of the Presidium is like the titular head of state having ceremonial significance only

2 The Council of Ministers

Created by Presidium of Central Committee of Communist Party The Council of Ministers, which is the highest executive and administrative organ and actual seat of great authority is created by the Presidium of the Central Committee of the Communist Party It consists of the Chairman, the Vice-Chairman, the Chairman of the State Planning Commission, the Chairman of the Commission of Soviet Control, the Chairman of the Committee of Agricultural Stocks, the Chairman of the Committee of Arts, the Chairman of the Committee of Higher Education and Ministers The Chairman of the Council of Ministers is often referred to as Premier This post was occupied by Joseph Stalin, George Malenkov, Nikolai Bulganin and Nikita Krushchev Alexei Kosygin is the present premier

Responsible to Communist Party Rather than to Legislature The Soviet Council of Ministers is responsible to the Communist Party rather than to the legislature Technically, the ministers of the Council are chosen at a joint session of the Soviet of the Union and the Soviet of Nationalities But actually, this session does nothing more than approving the choice of ministers made by the Presidium of the Communist Party

Powers and Functions There are about sixty ministers The powers and functions of the Council of Ministers are

(1) co-ordinating and directing the work of the All Union and Union Republican Ministers and of other institutions,

(2) taking measures to execute the national economic plan and strengthening the credit and monetary system,

(3) taking steps for the maintenance of public order,

(4) exercising supervision over foreign relations and so on

Not like British Cabinet It looks that the Council of Ministers is like a cabinet in a parliamentary system, that is, it is responsible to the Supreme Soviet or to the *Presidium*, when the Supreme Soviet is not in session It also seems that the Supreme Soviet or the Presidium can dismiss a particular minister or the whole Council of Ministers Ministers, who are members of the legislature, participate in its deliberations and answer questions put forth by the members of the Supreme Soviet

Here there is the temptation to compare the Soviet Council of Ministers to the cabinets in Britain and India It must be noted here that the Council of Ministers is really under the control of the highest organs of the communist party and only apparently under the control of the Supreme Soviet or the Presidium

The following facts are to be remembered

(1) The Council is not like the Cabinet in Britain, and it is not in the real sense collectively responsible to the legislature

(2) Though the Chairman of the Council of Ministers is referred to as the Prime Minister, he is not like the Prime Minister of India or Britain While in a parliamentary system the Prime Minister selects the other ministers, in the USSR the ministers are technically elected by the Supreme Soviet

(3) The Council of Ministers does not enjoy the power of dissolving the legislature

It must not be forgotten here that the USSR is a one-party totalitarian state in which there is no scope for opposition

MAIN POINTS

1 **Presidential Executive** Executive constitutionally independent of legislature regarding term and powers Nonresponsible executive combining Head of State and Head of Government Principle of separation of powers followed Head of state real executive Elected by people Executive not member of legislature. Fixed tenure Not responsible to legislature Ministers not colleagues but subordinates of President USA has presidential system

2 *Merits* 1 *Continuity of policy* 2 *Prompt decisions* 3 Selection of capable men 4 Good for countries with diverse groups 5 Not under shadow of parties 6 Strong executive uncontrolled by legislature

3 **Defects** 1 Harmonious working difficult 2 Difficulty of executing policies owing to legislative bottleneck. 3 Dictatorial power 4 Difficulty in pursuing foreign policy 5 Rigidity

4 **Presidential System in USA** 1 Background Americans against British party system under George III Wanted separation of powers and a written constitution 2 The American President Indirectly elected for 4 years Salary 2 00 000 dollars Not member of legislature and not responsible to it 3 Executive Powers Making appointments Control of armed forces Conducting foreign relations 4 Legislative Powers Vetoing bills Sending massages to legislature Applying pressure through party 5 Judicial powers Pardoning Great power with tremendous responsibility 6 President and His Cabinet Secretaries subordinate to President Their advice not binding on him No constitutional provision for departments

5 **Swiss Executive** 1 Plural Federal Council of seven members 2 Election by legi lature 3 Weak President 4 Councillors not members but appear before legislature 5 Councillors subordinate to legislature 6 Combination of parliamentary and presidential system but neither of them completely

6 **Executive in USSR** 1 Presidium A collegiate executive of 33 members responsible to the Supreme Soviet theoretically Executive legislative and judicial functions 2 Council of Ministers Created by Presidium of Central Committee of Communist Party Responsible to Communist Party rather than to legislature Functions—coordinating and directing work of All Union and Union Republican Ministers and of other institutions executing national economic plan maintenance of public order and so on 3 Not like British Cabinet

Control of Communist Party at all levels

CHAPTER 55

ADMINISTRATION AND CIVIL SERVICE

A Meaning and Importance of Civil Service

Policy-making and Executing Orders In modern times, with a revolution in the concept of the obligations of the state in favour of social welfare, the frontiers of the functions of the state have been steadily pushed forward The state is under an obligation to discharge various types of functions

Who discharges the multifarious functions? To get an answer to this question one should look not at the ministerial level only, but also at the governmental machinery below that level Ministers in a state do not themselves discharge the large number of functions, or look after the routine day to day work The routine work is done by a large army of officers and clerks While the ministers draw up policies and give broad instructions to the officers working under them, the latter and their subordinates are engaged in executing the orders from day to day

General Body of Officials Working under Departmental Heads Those who carry out ministerial instructions and attend to the day to day routine administrative work of the government are called civil servants 'It was in relation to the East India Company that the term 'Civil Service' was first used, mainly to distinguish between the military and the civil sectors of the company's personnel The Oxford English Dictionary gives the date of its emergence as 1875'[1] R G Gettell says "In its broadest sense the executive department includes the general body of officials serving under the heads of the various administrative departments and known collectively as the civil service These are distinguished on the one hand from legislative and judicial officers, and the other from members of the army and navy, who are under special military and naval organization and rule"[2]

1 E N Gladden *Civil Services or Bureaucracy?* (1956) p 18
2 *Political Sciences* (1956) p 345

There is no unanimity of opinion regarding the categories of government employees included in the civil service though normally civil service is differentiated from military and judicial services In some governments, it means the clerical establishments of the government departments Gilchrist believes that officials of local bodies are not civil servants[1] "The civil service constitutes the permanent executive in the modern state While the Parliament, the Cabinet and the President may reign, it is the civil service which really governs "[2]

Ministers come under the heading of political executive and the civil servants come under the title of permanent executive When governmental machinery goes into action, public administration begins In India, the District Collector, the Village Patil and the Policeman and many others are connected with the wheels of administration

(Please refer to the chart on Administration and Civil Service later in this Chapter)

Types of Administrative Functions Administration involves several types of functions

(1) determination of administrative policy,

(2) direction and supervision of the work,

(3) actual doing of the work, and

(4) settlement of disputes arising out of the enforcement of law and condition of services

The Civil Service in modern states includes administrative, clerical, technical and manipulative employees and public educational staffs receiving a fixed weekly, monthly or yearly wage or salary "

There was civil service in ancient times In ancient Rome, there was a bureaucracy composed of different types of administrators In the Mauryan Empire in ancient India, there was a well organised bureaucracy In early modern times in India, during Mughal rule there was a bureaucracy Monarchs in modern Europe had a large number of civil servants

Importance of Civil Service Modern governments depend on highly trained, experienced and loyal civil servants for efficient administration The civil service in every state has a

1 E B Schul *Essentials of Government* (1961) p 424
2 E Asirvatham *Political Theory* (1957) p 385

Secretariat The wheels of government are made to move from the Secretariat, which is composed of several ministries or departments In a parliamentary system, each government department is under the control of a minister, who is assisted by a junior minister or a deputy minister Under the instructions of the minister concerned, the secretary of a department directs the work of the department There are several highranking officials carrying out the orders of ministers, deputy ministers and secretaries These officers are assisted by junior officers, under whom civil servants of the lower grade work

Need to Put Human Energy and Public Money to Good Purpose Government employs a very large number of persons in the various departments, and spends large sums of money In the interests of the state, governmental machinery should be put to the best use There are hundreds of small departments attached to each ministry Government requires in them different types of men with professional and technical skill Some of the government departments are gigantic in size, undertaking a stupendous amount of various kinds of work It is essential to see that human energy and public money are properly canalised and used for good purpose

Government has to take proper care in organising and maintaining the services and attend to the civil service problems These problems relate to appointment or dismissal, promotion, salary, discipline, relations with the legislature and the public, and legal liability

Healthy Principles Civil service will be efficient, if the following healthy principles are followed

1 *Political Executive not to make Appointments* Laski points out that it must not be within the power of the political executive to make appointments of permanent civil servants This is a very healthy principle, as the political executive is bound to have only political considerations in selecting civil servants "There seems now no reasonable ground for doubt that the less control the political executive possesses over the appointments of permanent officials, the better it is for the state It is clear from the experience of every modern state that the power to control appointment to the public service makes certain, where it is possessed by the political executive, an ample corruption of public life "[1]

1 H J Laski *A Grammar of Politics* (1957) p 397

2 *Selection on Basis of Merit* If the civil service is to be efficient, appointments must be made strictly on the basis of merit Open competitive examinations should be held for choosing candidates Merit suffers or is side-tracked, when a government follows the "spoils system" under which "appointments, promotions and dismissals are based primarily on party affiliation, party loyalty, and the degree of service rendered to the party in its efforts to gain control of the government "[1] In the USA, the "spoils system" assumed scandalous proportions S Leacock points out "With the advent of President Jackson (1829) was inaugurated the spoils system Wholesale removals from offices were made and places thus made vacant became the prices of the President's political followers The disastrous precedent thus established was followed by later administrations until the clean sweep of offices became a recurrent feature of American politics "

3 *Good Service Conditions* Service conditions must be good so that intelligent and ambitious young men and women are attracted, and hopefully look for a promising career in government service Handsome salary, substantial increments, security of tenure, and other reasonable conditions of service are bound to attract capable men and women

4 *Appointments Promotion, Demotion, and Dismissal according to Rules* In appointing, rewarding and punishing civil servants, a definite set of rules must be followed, and these must not be made on personal considerations Civil servants should not be under any threat of arbitrary action of superiors

5 *No Nepotism* Nepotism is the worst enemy of civil service Appointments should be on the basis of merit and not on the basis of relationship between the appointing authorities and the incumbents Some degree of nepotism may be possible within rules, but the constitution and the law should clearly set their face against nepotism

C **Functions of Civil Service**

Functions Civil servants conduct the administration, which "includes the directing, controlling and co-ordinating activities of the chief executive and departmental heads, the more or less routine and often technical work performed by the vast number of officials

1 E B Schul *Essentials of Government* (1961) p. 435
2 *Elements of Political Science* (1933) p 195

and employees who are engaged in the execution of particular policies, and the activities of adjudicating such disputes as arise in connection with the application of law to specific situations"[1] Much depends upon the calibre and integrity of the civil servant A well organized and efficient civil service is bound to satisfy the public

The functions of civil servants are the following

(a) Prompt and Vigorous Implementation of Policy A policy framed by the political executive, that is, the cabinet must be implemented with promptitude and vigour

(b) Public Service The civil service should bend its energy to render public service A government department functions not for its own sake but for meeting the needs of the public Civil servants must therefore work in a respónsible manner and serve as bulwarks to the ministry concerned and give satisfaction to the public In a democracy, the civil servants must remember that they are serving under a government, which is of the people

(c) Day to Day Work The civil servant should do the day to day routine work promptly leaving no arrears to accumulate The piling of arrears reflects the lethargy and indifference of the civil service

(d) Supervision While civil servants should carry out the orders of their superiors, they should also supervise the work of their subordinates, and ensure that work is done efficiently and accumulation of arrears of work is avoided

(e) Action on Public Complaints Necessary action should be taken against those who are habitually negligent and are indifferent towards the public in their dealings Though it is necessary to give adequate protection to civil servants to enable them to work satisfactorily, it is equally necessary to take action when complaints are proved to be genuine

D Features of Civil Service

The following are the features of civil service

(1) Graded Officials Civil service is hierarchical and there are different grades of civil servants J A Corry observes "Subject to minor qualifications, civil service organisation is hierarchical The old and familiar model to which it can be compared is military organisation Physically the civil servant may be located in the

1 E B Schulz *Essentials of Government* (1961) p 231

central departments in the capital, or in one of the branch offices scattered through a country or even in a foreign country "[1] Corry mentions five distinct grades or classes in a civil service

(1) Administrative This looks after general management, that is, direction, planning and coordination

(2) Professional This includes doctors, lawyers, economists, engineers, and so on

(3) Clerical This includes those who do much paper work

(4) Skilled indu trial workers

(5) Unskilled workers [2]

At the top there are high-ranking administrative officers with immense discretionary power in their hands Though they are supposed to carry out the orders of ministers, actually they do much more than that Ministers as a rule are not experts, but amateurs who need expert advice Highly experienced top-ranking officials, who have witnessed the rise and fall of several ministers, are able to advise ministers, and help them in formulating government policies At the bottom of a department are the junior-most clerks, whose work is to do the routine work according to rules and in structions of their superiors

(2) Permanent Tenure Permanent tenure is another feature of civil service Civil service needs adequately qualified and experi enced men Those having the qualifications are permanently absorbed by government In making tenure permanent a two-fold purpose is served Firstly, the incumbent becomes carefree, as perma nent service is secured, and secondly, government takes advantage of the experience of the civil servant In several departments, there are many persons who join service at a young age and retire after 30 or more years of service Unlike ministers, they have a permanent tenure A ministry remains in power in a cabinet system only as long as it enjoys the confidence of the legislature but civil servants are in permanent services Though there is security of tenure to the civil servants, there is also provision for disciplinary action including suspension, demotion and dismissal from service

(3) Anonymous and not Responsible to Legislature Civil servants in a parliamentary system are not supposed to shoulder responsi bility for policy decisions, and they are not responsible to parlia ment Ministers alone are responsible to the legislature, and they

1 *Democratic Government and Politics* (1958) p 479

2 Ibid p 494

cannot shift the responsibility to the shoulders of civil servants. Anonymity is an essential feature of civil service, and the name of civil servants should not figure in parliament In parliament, the minister concerned, and not the civil servant, is questioned for dereliction of duty or lapses If there is a serious mistake or a case of unpardonable negligence or inefficiency, the minister, who is the departmental head, should tender his resignation Ministers are however free to take steps against civil servants, who have neglected their duties

(4) *Neutrality and Impartiality* Civil servants are not supposed to be party men In rendering public service, they should be neutral and impartial While ministers belong to political parties, civil servants should not They are the servants of the state, and not instruments of any political party Their loyalty is to the state and to the superiors in the government office In carrying out their duties and responsibilities they should have a singleness of purpose and complete immunity from party considerations Party spirit or a partisan attitude is bound to impair the integrity and efficiency of civil servants

E Merits and Defects of Civil Service

Merits The following are the merits of civil service in a highly advanced democracy

(1) *High Competence* Civil servants of the upper layers are highly qualified and competent They know their jobs well, and with their efficiency and experience are towers of strength to the government

(2) *Good Discipline* Civil servants are highly disciplined, they carry out orders promptly and supervise the work of their juniors efficiently R H Soltou observes "Impartiality and impersonality are the two characteristics of a modern civil service It must be no respecter of persons, it must be above suspicion, it must take its work seriously"[1]

(3) *Success of Government Policy* Civil servants implement policies promptly and vigorously, and match the policy-making capacity of ministers, who are their superiors

(4) *Satisfaction to Public* By impartial, neutral and efficient civil service, the wheels of government are made to move fast and the members of the public are generally satisfied

1 *An Introduction to Politics* (1959) p 230

(5) *Proper Advice* Civil servants place the wealth of their experience at the disposal of ministers *Ministers are not necessarily* experts, they are amateurs, who need the advice and suggestions of the technically qualified permanent civil servants Jennings points out the importance of the advisory role of the civil servant in England, his function is "to advise, to warn, to draft memoranda and speeches in which the Government's policy is expressed and explained, to take the consequential decisions which flow from a decision on policy, *to draw attention to difficulties which are arising* or are likely to arise through the execution of policy, and generally to see that the process of government is carried on in conformity with the policy laid down"[1]

Defects The following are the defects of civil service

(1) *Conservative and Narrow Outlook* The conservative and narrow outlook of the civil servant is not conducive to good work He is hemmed in by rules on all sides, and he has to take each step a cording to rules Some of the rules of civil service are such that even the most promising youngster's spirit to serve rightly is stifled Gradually, the civil servant develops the tendency to obey the rules rather than do the work Service rules in some countries are so rigid and utterly devoid of imagination that they actually act as hindrances to good work A few years of experience in a government department make a man develop a narrow and con servative outlook Civil servants are rigid in their attitude and wooden-headed in their approach They refuse to apply their commensense to simplify matters As slaves to procedure, they are utterly callous towards the public

(2) *Inefficiency and Slackness* Procedure for its own sake en courages the lazy drones in government offices and throws a wet *blanket on the honest, sincere and diligent civil servants It is well* known that while new recruits show the tendency to do hard work in the beginning, they learn in course of time that promotion is on the basis of seniority and not on the basis of merit and hard work Seeing highly efficient men and inefficient men working perfunctorily on the same par and getting the same rewards, the new recruits discover that hard work goes unrewarded, and per *functory work and shirking go unpunished*

(3) *Red-Tape* Red tape is the worst feature of civil service Procedures are long-winding and sickening, and work is carried on

1 *Cabinet Government* (1959) p 126

at a snail's pace The clerical staff painfully inches forward and files seem reluctant to budge What an intelligent and conscientious man can do in a day, may not be possible for four procedure-bound employees to do even in a month

(4) Shifting Responsibility Civil servants, thanks to the procedure can conveniently avoid shouldering responsibility When something goes wrong in a department, it becomes well nigh impossible to fix the responsibility

(5) Bribery and Corruption The aforesaid defects prepare the ground for bribery and corruption While civil servants build pyramids of files without turning out any solid work, the much harassed members of the public are compelled to lubricate the wheels of governmental machinery Even those, who on principle are against greasing palms, are driven by despair to give "gifts" and ' speed money '

F Civil Service in England

Government Impossible without Civil Service Civil service in England had its origin long back E N Gladden observes " The beginnings of the British Civil Service are to be discovered in the courts of the Anglo-Saxon kings when for the first time administration had emerged as a distinct activity and clerks were beginning to be employed on a whole time basis we do not know precisely when or at which court this happened "[1] Civil service in England with its vast experience and efficiency plays a very important part ' But for the civil servant's unremitting labour, indeed, government would be a jumble of rules and regulations suspended in mid-air without force or effect upon the people '[2]

Cooperation between Amateur and Expert to Run Governmental Machinery In shaping various kinds of policies too, both Cabinet and Parliament draw heavily upon civil service for information and guidance The minister is a political official, whereas a civil servant has a permanent tenure and is anonymous and impartial As observed earlier, Ministers are amateurs, whereas the civil servant is an expert "The basic feature of British executive and administrative organisation is, therefore the association together of (1) an amateur, lay, political non-permanent, directing body of officials, and (2) an expert, professional, non-political, permanent, subordinate staff ' [3] Though ministers are not supposed to be

1 *Civil Service or Bureaucracy ?* (1956) p 13
2 Ibid
3 *Modern Foreign Governments* (1657) p 134

bound by the advice of their subordinates, in many cases a bill is the product of the thought and imagination of a civil servant and of the minister, the departmental head

Civil Service Reforms It took a long time for the British people to have civil reform Several committees and commissions were appointed to enquire into the structure and working of civil service

In 1853-54, Trevelyan-Northcote prepared a report on the organisation of permanent civil service The other bodies were

(1) The Select Committee of 1860
(2) The Play Fair Commission (1874-75)
(3) The Ridley Commission (1886-90)
(4) The Macdonnell Commission (1912-15)
(5) The Reorganı ation Committee (1919-20),
(6) The Tomlin Commission (1929 31) and
(7) The Priestly Commission (1953-55)

The people had to fight against " various flagrant and insidious forms of what is commonly known as patronage " Jobs were not given on merits, but on influence, or for ' services" rendered in the past

In 1833, England made a start in civil service reform

In 1855, an order-in-council set up a civil service commission

In 1870 another order-in-council introduced compulsory open competitive examinations The principle of merit gradually came to be applied to all administrative officers and employees, except government servants doing routine work

Different Classes of Civil Servants At present in England there are different classes of civil servants

(1) Administrative Class This is regarded as "the brain of the service " This consists of about 3000 persons, who are highly qualified and competent

(2) The Executive Class This has about 65,000 persons

(3) The Technical Class In 1952, there were about 1,85 000 employees in this category

(4) The Clerical Assistant Class More than a hundred thousand belong to this class The Civil Service Commission and the Treasury are the agencies that control civil service

Recruitment through Tests and Examinations As regards recruitment, there is no uniform rule. Recruitment may be made

by tests which mean written examination, interview and a combined written test and interview

Two types of competitive examinations are held today These are methods I and II E N Gladden points out "Method I is virtually the pre-war type of competition, based upon a wide range of school subjects of university honours level to which a preliminary interview by a single interviewer has now been added Method II, a modern innovation designed to place special emphasis upon personality and quickwittedness as opposed to sheer intellectual ability, is based upon the so-called house party scheme, adopted during the war for the selection of army officers and by the Civil Service Commission for recruitment to the Administrative Class in Reconstruction examinations"[1]

G Civil Service in the USA

Spoils System and the Civil Service Act of 1883 As Leacock points out, for the first 37 years in the history of the USA, power was not utilised to dismiss officials for creating vacancies for party followers But in 1829, President Jackson introduced the pernicious *spoils system*, according to which administrative posts were to be regarded as spoils of victory "When a new administration came in, virtually all who had government jobs went out, making room for a fresh swarm of pay roll patriots Post offices in towns and villages throughout the land became ambulatory, in each quadrennium they moved from one end of the main street to the other, following the politics and preferences of the post-master Nowhere in the government service during these years did personal competence count for much" Laski strongly denounces the spoils system "The spoils system in America results in periodical crises in which there are revelations of dishonesty perhaps even greater than the most debased commercialism would show"[2]

The disastrous effects of this evil system led to the passing of the Civil Service Act of 1813, which separated as far as possible the civil service from politics Appointments were not to be made on party considerations but on the basis of merit by holding competitive examinations The Act set up a body of three commissioners, who, when the President requested, helped to make service rules regarding competitive examinations and such other matters

1 *Civil Service or Bureaucracy* (1956) p 73
2 *A Grammar of Politics* (1957) p 398

Civil Service Examinations in the USA J A Corry says "The Federal Civil Service Commission in the United States is a board of three members appointed by the President subject to confirmation by the Senate but carrying on its work free of political interference and control Its main work is to examine and certify candidates for entrance to the federal civil service"[1] At present civil service examinations are held, in contrast to the British civil service examinations system, it is said that the American system is more democratic than the British While the British system tests the intellectual abilities of candidates, the American system is of a practical nature, and it sees whether a candidate is fit for a particular job

H Civil Service in India under the Constitution

Retirement of Europeans and Englishmen and Indianisation Under the Constitution of India (1950), the position of the services has undergone a change As a result of independence, a number of Europeans and Englishmen have retired A number of senior posts had therefore to be filled in by junior members of the services The Services have now been completely Indianised

Legislatures to Regulate Recruitment Parliament and the State Legislatures have been authorised to regulate the recruitment and conditions of service for persons recruited to the Central Government Services and Provincial Government Services respectively But the President and the Governors have also powers to make rules regarding the recruitment and conditions of service of the respective public servants till Parliament or the State Legislative may regulate

Service during Pleasure of President or Governor All public servants in India hold office during the pleasure of the Governor or the President No public servant can be removed by an authority subordinate to that by which he was appointed

The Council of States is empowered to create one or more All India Services if national interests so demand

Public Service Commissions

The Constitution says that there shall be a Union Public Service Commission, like the Federal Public Service Commission under the Act of 1935

The Constitution also empowers every State to have a Public Service Commission Two or more States can have a Joint Public Service Commission

1 *Democratic Government and Politics* (1958) p 498

(d) in any civil claims made by public servants under the Central Government,

(e) in any other claims for pension or in respect of injuries sustained by a person while on duty

Expenses All the expenses incurred by the Union Public Service Commission are charged on the Consolidated Fund of India

Report The UPSC is also required to submit a report every year to the President regarding the work done by it and the President shall cause a copy of it to be laid before each House of Parliament The President shall also intimate the action taken by the Government on the report of the UPSC

2 The State Public Service Commissions

The Constitution provides that for each State there shall be a Public Service Commission (PSC) The Chairman and the members of the PSC are appointed by the Governor but they can only be removed by the President The Governor can suspend a member or the Chairman

At least one-half of the members should have served under the Government of India or the State Government for a period of ten years It is also provided in the Constitution that two or more States may agree to have a Joint PSC If the legislatures of the States concerned pass a resolution to that effect Parliament can by law establish such a Joint Commission The Chairman or the members of the Joint PSC are to be appointed by the President They retire at the age of 60 and hold office for a term of 5 years They are eligible for appointment as members of the UPSC or SPSC They are not eligible for any further employment under the State Government or the Government of India

The functions of the State Public Service Commission are similar to those of the Union Public Service Commission

Gorwalla and Appleby Reports The Gorwalla and the Appleby reports have made many suggestions regarding the position of the Services There is a lot to be done to make them efficient and honest There are no adequate arrangements regarding the training of persons serving in the subordinate ranks But as compared to other democratic countries we have an efficient Civil Service in India

Need of Good Administration No one can gainsay that there is a compelling need to improve the tone of administration, simplify procedures and reduce the scope for bribery and corrup-

The Union Public Service Commission, if requested to do so by the Governor of a State, may, with the approval of the President, agree to serve all or any of the needs of the State

1 Union Public Service Commission

The Constitution says

(1) The President of India shall appoint the Chairman and members of the Union Public Service Commission (UPSC)

(2) The number of members of the UPSC is not fixed Persons of integrity commanding the confidence of the general public are usually appointed as the members of the UPSC They are appointed for a term of six years, but no one is continued after he/she attains the age of 65 years

(3) At least one-half of the members of the UPSC shall have served either under the Government of India or under the State Government for 10 years or more

(4) The Chairman and the members of the UPSC are not eligible for employment under the Government after retirement

(5) Members can be removed by the President but only after a reference regarding their removal has been made to the Supreme Court The President may however suspend any member or the Chairman They are also prohibited from engaging in any private business The President can remove the Chairman or any member on grounds of infirmity of mind or body or on account of insolvency

(6) The President may fix the number of members of the Commission and also regulate their conditions of service However, their conditions of service cannot be altered or varied to their disadvantage during their tenure of office

Functions of the Union Public Service Commission The following are the main functions of the UPSC

(1) Holding Examinations It shall hold examination for recruiting persons for the different All-India Services and the Central Secretariat Service

(2) Consultation It shall be consulted in the following matters

(a) in all matters relating to the recruitment to Civil Services and Civil posts,

(b) in the principles to be followed in making appointments, promotions and transfers

(c) in all disciplinary matters affecting persons belonging to the All India Services, serving under the Government of India, or the State Governments,

(d) in any civil claims made by public servants under the Central Government

(e) in any other claims for pension or in respect of injuries sustained by a person while on duty

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Need of Good Administration No one can gainsay that there is a compelling need to improve the tone of administration, simplify procedures and reduce the scope for bribery and corrup-

tion Corruption is not peculiar to India alone, it is found all over the world This, however, does not mean that we should take bribery and corruptian for granted and do nothing to eliminate it The problem of rooting out corruption commanded the attention of eminent men in India including Shri Gulzarilal Nanda, who made history by his efforts to fight out corruption through the Sadachar Samiti and the Centre Bureau of Investigation, when he was the Union Home Minister The Sadachar Samiti had raised high hopes of booking the corrupt, but these have not been fulfilled

Unfortunately, as some of the inquiries revealed, men in very high authority misused their power and demoralised the Civil Service In June 1964 the S R Das Commission appointed to probe into charges of corruption and misuse of power held Sardar Pratap Singh Kairon, Chief Minister of Punjab guilty of connivance and held him culpable in 4 cases of irregularity He was held guilty of furthering the interests of his son and had to resign (In February 1965, Sardar Pratap Singh, and three others who were travelling by car were shot dead by unknown presons)

In March 1965 the Cabinet Sub-Committee on going into the allegations against the former Chief Minister of Orissa, Shri Biju Patnaik and Shri Biren Mitra and the report of the Central Bureau of Investigation on them passed strictures on them

Cleaning up administration will be difficult, if men in authority take law into their own hands and indulge in unwholesome activities

Administrative Reforms Commission The Government of India appointed an Administrative Reforms Commission with Shri Morarji Desai as Chairman Shri Desai says "An efficient administration should give the best results in the shortest time with the least expenditure and with the least inconvenience to people" After some time Shri K Hanumanthayya became the Chairman

MAIN POINTS

1 **Meaning and Importance of Civil Service** Origin in the East India Company in 1675 General body of officials serving under heads of department. Need of policy-making as well as execution of orders Various types of administrative functions Government impossible without civil services Origin of the word Bureaucracy in France

2 **Organization** Work of secretariat Need to put human energy and public money to good purpose Healthy Principles—1 Political executive not to

make appointments 2 Selection on merit 3 Good service conditions 4 Appointments promotion and disciplinary action according to rules Role of Public Service Commissions

3 **Functions** 1 Vigorous implementation of policy 2 Public service 3 Day to day work 4 Supervision 5 Action on public complaints

4 **Features** 1 Graded officials 2 Permanent tenure 3 Not responsible to legislature 4 Neutrality and impartiality

5 **Merits** 1 High competence in advanced states 2 Good discipline 3 Success of governmental policy 4 Public satisfaction 5 Proper advice

6 **Defects** 1 Conservative and narrow outlook 2 Inefficiency and slackness 3 Red tape 4 Shifting responsibility 5 Bribery and corruption

7 **Civil Service in England** Cooperation between amateur and expert Civil service reforms Different types of civil servants

8 **Civil Service in USA** Spoils system and its abolition in 1833 Civil Service Examinations

9 **Civil Service in India** Public Service Commissions

the Consultative Committees of the Board of Education and Department of Education for Scotland, and the Unemployment Insurance Statutory Committees of the Ministry of Labour But the Ministry of Agriculture and Fisheries, the Ministry of Health the Ministry of Pensions the Scottish Departments, the Board of Trade and the Ministry of Transport made great use of *statutory advisory committees*'[1]

B Organisation of Consultative and Advisory Bodies

Members not to be Party Men but Men Impartially Representing Various Interests The purpose of consultation will be defeated, if the bodies are composed of biased and prejudiced men, in other words, men having stakes in the government The men should not be hard-picked by government for every government is bound to choose only those who will give "safe advice to it The members of consultative and advisory bodies should not be members of the ruling party or members of the opposition party They should be men, who have no party affiliations and who are prepared to speak out their minds in the best interests of the country

The members should belong to various groups and institutions, and should be competent to present different shades of opinion If committees are formed to give representation to all the interested parties, government will be able to get impartial, sober and expert advice on a particular problem For instance, if the government appoints a special committee to conduct an inquiry into the affairs of coffee plantations with the intention of abolishing excise duty and increasing wages of workers, the Committee concerned must have representatives from (1) big coffee plantation owners, (2) small coffee plantation owners, (3) government, (4) labour, and (5) consumers "A number of persons can be appointed to the committee to speak for consumers or for the general public They have the right to advise, to be consulted, and to warn If they do their job, administration will be carried on under the watchful eye of representatives of those who are directly interested in what is being done"[2]

C Purpose and Functions of Committees

Temporary and Permanent Bodies Advisory bodies may be temporary or permanent Ogg and Zink say "Advisory bodies

1 *Cabinet Government* (1956) p 97

2 J A. Corry *Democratic Government and Politics* (1958) p 546

CHAPTER 56

CONSULTATIVE AND ADVISORY BODIES

A Importance of Consultation

Executive not to Rule Arbitrarily but by Consultation The importance of consultation in a democratic form of government can hardly be overestimated, in fact, democracy is government by consent and criticism The executive cannot rule arbitrarily, it consults the legislature, which functions through various committees and subcommittees Besides the parliamentary bodies, there are other bodies, which an executive in a democratic government consults

Need to Consult Advisory and Consultative Bodies The functions of the modern state have been steadily expanding, in discharging its various obligations, government must consult the various bodies so that public support and co-operation are assured J A Corry observes "Advisory Committees are now widely used as instruments of the administrative process in Britain, Canada and the United States, and reliance on them is increasing Generally, they are designed to give representation to interests organized or unorganized [1] The people then feel that their representatives in the legislature and in different committees have been consulted, and the government can bank upon the general support of the people. "When the government is faced with a complex and arduous task of administration aimed at realising some objective of the positive tate, it can set up a committee representative of the interests affected to advise the administrators "[2]

Ivor Jennings points out 'Another development, noticeable especially since the Report of the Machinery of Government Committee in 1918 was the creation of numerous advisory com mittees In many cases statute law had specially authorised or compelled the setting up of such committees The most impor tant were the Import Duties Advisory Committee of the Treasury,

1 *Democratic Government and Politics* (1958) p 546

2 Ibid p 545

the Consultative Committees of the Board of Education and Department of Education for Scotland, and the Unemployment Insurance Statutory Committees of the Ministry of Labour But the Ministry of Agriculture and Fisheries, the Ministry of Health, the Ministry of Pensions, the Scottish Departments, the Board of Trade and the Ministry of Transport made great use of statutory advisory committees'[1]

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may be temporary only, as for example royal commissions set up to study and report upon some particular subject e g proportional representation or capital punishment, and the labours of such may be aimed primarily at preparing the way for adoption by the government of some concrete programme of legislation On the other hand, they must be continuous or "permanent" enlisting the services of presumably well-informed private individuals who, acting alone or in conjunction with appropriate respresentatives of government will be available over the years for consultation and opinion on given subjects or in given fields of study "[1] Finer points out that the growth of advisory councils on a large scale took place first in France owing to two factors viz inefficiency of the French Civil Service and the insistence of the French that law-making shall be by the intellectual elite [2]

Purposes Committees may be set up for the following purposes

(1) *To Provide Relief to Legislature* Committees are appointed to provide relief to the legislature, which is overburdened with ever-increasing legislative work The legislature as a whole body, has to attend to functions of general importance When bills have to be passed, they may be referred to select committees, which will work on them in an elaborate way

(2) *To Advise Government on Bills* When government is thinking in terms of introducing bills, whose effects are likely to be revolutionary or bills which are controversial, they may be studied in detail by an expert committee, which will get in touch with the members of the public and the important institutions or interests which will be affected by it

(3) *To Advise Particular Departments* Sometimes, an advisory committee may be set up to give advice and suggestions to a particular government department

(4) *To Know Opinion of Various Interests* Advisory bodies enable various interests in a state to make representation to the government through them These different interests may either fully or partially support the government measures or may be entirely opposed to them

(5) *To Get Useful Information* Committees are also appointed to collect vital and useful information Government is able to get

1 *Modern Foreign Governments* (1957) p 124
2 See *The Theory and Practice of Modern Government* (1961) p 452

invaluable information from the public, when the different interests prepare a case with the help of statistical data

(6) To Win Public Confidence Committees are also appointed to win public support, confidence and co-operation The psychological effect of the feeling that the government cares for the opinion of the people has great significance, for it can inspire confidence and evoke co-operation J A Corry observes "The positive state cannot accomplish what it is trying to do unless it gets widespread co-operation as well as general acquiescence from the public The advisory committee is calculated to improve the equality of administration, to foster an atmosphere of co-operation, to make possible continuous scrutiny of the exercise of discretionary administrative powers [1]

(7) Government Feels the People's Pulse Advisory bodies enable government to feel the pulse of the people Government may be able to modify its policies, when it knows the public mind

Functions The following are the functions of advisory bodies

(1) Advice on General Administration Government may seek advice from advisory bodies on matters of general importance pertaining to administration as a whole

(2) Advice on Bills Government consults committees which are competent to give the much-needed advice regarding bills

(3) Giving General Advice and Making Suggestions Committees must be given full freedom to give advice and make suggestions without fear or favour

Advice not Binding Here, it must be noted that the consultative and advisory bodies are only to advise recommend and suggest Their advice may be taken partially or fully or may be rejected altogether Their decisions are not binding on the executive, which is not committed to implement them H J Laski says "Let me first emphasise the functions they ought not to fulfil They are to advise about administration but they are neither to direct nor to control it That is in part because the notion of ministerial responsibility to the legislative assembly must be left unimpaired, in part because as I believe, the root of the effective administration is the devolution of responsibility upon an individual They are not, secondly, to prepare policy They may offer suggestions, when it has been prepared, or even indicate subjects which

1 *Democratic Government and Politics* (1958) p 546

require attention, but the definition of measures is essentially matter for the minister and his subordinates"[1]

MAIN POINTS

1 **Importance of Consultation** Government by consent. Need to consu Consultative and advisory bodies

2 **Organization of Advisory Bodies** Members not to be party me Various interests to be represented

3 **Purpose and Functions** 1 Purpose Providing relief to legislature a giving advice. Knowing opinion of various interests. Feeling public pulse. 2 Fun tions Advice on general administration and on bills Making general suggestion

Advice of these bodies is not binding on government

1 *A Grammar of Politics* (1957) p 337

Section XV

THE JUDICIARY

CHAPTER 57 ORGANISATION AND FUNCTIONS OF THE JUDICIARY

The legislature makes law, the executive enforces them and the judiciary interprets them It is not enough if laws are made, they should be interpreted and there should be a procedure to deal with law-breakers

A Meaning and Importance of the Judiciary

Meaning Judiciary is that branch of government interpreting law, settling disputes, and giving justice In federal states, it acts as the guardian of the constitution

Judges Tools of Executive Long Back Modern states, unlike the ancient and medieval ones, lay great emphasis on the principle that justice should be meted out fearlessly and impartially, and that judges should not be under the obligation and control of the executive There was a time, when the executive and judicial powers were merged in the same hands Judges were appointed by monarchs or their agents, and judges depended upon the sweet will and pleasure of the executive regarding their salaries, and their very continuation in service W F Willoughby says 'Down to and through the period of the Stuart kings, judges held office at the pleasure of the king They were dismissed, if they thwarted the will of the king, with the result that they were in many cases but his servile agents In the revolution of 1688, one of the great reforms insisted upon was that judges should hold office during good

behaviour This was resisted by the king, but was finally secured by the Act of Settlement "[1]

Judiciary Test of Excellence of Government A government can be regarded as efficient and fair, when all are sure of getting justice from a well organized and independent judiciary Even in a democracy all may not be able to secure justice and fair treatment from government and the minorities may be left high and dry In several states, minorities need protection from the tyranny of the majority Willoughby says "It has been truly said that no tyranny is so great as that of a majority One of the great problems confronting a people is that of providing means by which this danger may be avoided Experience has shown that this can be done by entrusting to the courts the duty of seeing that no branch of government nor all the branches combined shall take any action contrary to law or in violation of the rights guaranteed to individuals "[2] Bryce has emphasised the point that there is no better test of the excellence of a government than the efficiency of its judicial system *J* W Garner observes "A society without legislative organs is concei vable, and indeed, fully developed legislative organs did not make their appearance in the life of the state until modern times, but a civilized state without judicial organs is hardly conceivable "[3]

Protection of Law to All and Equality before the Law In highly advanced modern states, the individual is assured protection of law Justice is given not arbitrarily but according to well-established principles laid down by the law and custom Law is passed by the legislature and not by a single individual and it is interpreted and applied to particular cases by learned indepen dent and impartial judges Law is applicable to all, and no one is exempted from the duty of obeying it There is equality before the law and no one, whether high or low, can escape punishment, when the violation of law is detected

For violation of law, the same penalty is applied in all cases But in backward states t picture ... ent When judges are partial and prejudice ever d medieval states, law-breakers and th and status go scotfree or are ligh e treated

1 *The Government of Mo*
2 Ibid p 48?
3 *Political* ...

severity When judges are corrupt and perverse, justice is sold, then, the wrong-doers thrive and prey upon the poor and the weak In a well organized modern state, justice is given according to sound legal and constitutional principles A modern state recognises the principle that it has to be fair to the accused, and no person is to be regarded as guilty until a duly constituted court of law has given the verdict of guilty

B Organisation of the Judiciary

Hierarchical The structure of judiciary is hierarchical For instance, in India the order of courts is as follows the Supreme Court, the High Courts, City Civil and Criminal Courts, District Courts and the Subordinate Courts

Competent Judges and Fair Trial According to the area and population of a state, the judiciary is organised and several courts are set up, each court is presided over by a competent judge Much attention is paid now-a-days to the organisation of the judiciary, and definite rules are made regarding the appointment and the service conditions of judges and procedure in courts Cases are heard openly, and verdicts are given in the presence of the members of the public There is no secrecy about trials, and people have no reason to entertain any suspicion It is not enough if justice is done, the people should also feel so The conviction or the acquittal of an accused does not depend on the whims of one man, for the verdict is passed only after a thorough investigation is made, facts are ascertained and witnesses are heard and cross-examined

1 Efficiency and Independence of the Judiciary

Creation of Favourable Conditions A good state creates conditions favourable for the proper functioning of the judiciary Now-a-days, we all speak of the independence of the judiciary Judges must be able to do their job conscientiously, fearlessly and impartially without having any need to favour a particular individual or party appearing before them or having the remotest fear of any individual or group either in the executive or in the legislature A bad judge harms himself, and does immense damage to the temple of justice J A Corry observes "A judge who obviously abandons impartiality or gives an interpretation of the law that lawyers generally think to be obviously wrong, loses caste in the legal profession Self-respect and the desire to stand well with their professional

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For violation of law, the same penalty is applied in all cases But in backward states the picture is different When judges are partial and prejudiced as in several ancient and medieval states, law-breakers and criminals with money, rank and status go scotfree or are lightly punished, while the poor are treated with

1 *The Government of Modern States* (1936) p 434
2 Ibid p 482
3 *Political Science and Government* (1955), p 684

severity When judges are corrupt and perverse, justice is sold, then, the wrong-doers thrive and prey upon the poor and the weak In a well organized modern state, justice is given according to sound legal and constitutional principles A modern state recognises the principle that it has to be fair to the accused, and no person is to be regarded as guilty until a duly constituted court of law has given the verdict of guilty

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brethren are powerful controls on the judiciary"[1] No justice is possible, if judges cannot function freely, and fearlessly according to the law, the constitution and their conscience

Factors Favourable for the Efficiency and Independence of the Judiciary The following are the factors favourable for the efficiency and independence of the judiciary

1 **Proper Method of Appointing Judges** The state should have healthy and clear cut rules regarding the organisation of the judiciary In several states the constitution itself makes provision for the selection of the higher judiciary The independence of judges depends much on the way in which they are appointed Judges can be elected by the people or by the legislature or can be appointed by the executive Appointment of judges through election was first begun in France Such a system is found in a few States in the USA, and in some Swiss Cantons In Switzerland, the federal chambers sitting together elect judges for a period of six years Similarly, in some States in the USA, people elect the judges for a short term In states like France, competitive examinations are held for the selection of judges E B Schulz says "The selection of members of the bench by the legislature is a fairly common practice This method is used for appointment of the judges of one or more courts in such countries as the USSR, Bolivia, Gautemala Honduras Albania, Bulgaria, Costa Rica, Switzerland and Yugoslavia"[2]

Appointment by Executive Favoured Appointment of judges by the executive is regarded as the best method, though this too is not completely above board If judges are elected by the people, their aim will be to give 'popular" judgments, and keep the electorate pleased so that another term of office at the next election is guaranteed but such judges are sure to lower the standard of justice and bring government into disrepute Here again, the danger of the evils of the party system will manifest themselves Judges will hanker after party tickets, and the judge s seat will have a political colour

When judges are elected by the legislature, they become dependent on the legislature and particularly on the majority party in the legislature

In Britain and India, judges are appointed by the executive according to certain rules, which minimise the evils in judicial

1 *Democratic Government and Politics* (1958) p 404

2 *Essentials of Government* (1961) p 455

organisation Though there is latitude for the executive to choose its hot favourites, normally rules do not permit the appointment of unqualified, incompetent and corrupt men as judges In advanced democracies, in which high standards of politics and administration are maintained, and the executive wants to guard its reputation, appointments will not be indiscriminately made J A Corry states "Appointment of the judges in Britain and Canada is in the hands of the government of the day and in the United States the appointment of federal judges is made by the President, with the consent of the Senate It is thus a form of political patronage In Britain this patronage is shared by the Lord Chancellor and the Prime Minister In Canada, nomination is in the hands of the Prime Minister and the Minister of Justice, but they usually accept the recommendation of the member or members of the cabinet representing the province in which the appointment is to be made "[1]

2 **By Providing for Security of Tenure** Another way of upholding the independence of the judiciary is to provide for absolute security of tenure of judges during good behaviour Judges should not entertain any suspicion or anxiety about the security of tenure and there should be no reason for them to curry favour with any authority however high he may be As long as they discharge their duties satisfactorily and observe a high standard of conduct no authority in the state should be able to come in their way or harm their interests As S Leacock points out, "in a well-ordered government the judiciary should be adequately paid a compensation not affected by the number and nature of their decisions, and should enjoy permanent tenure of office and be independent of the good will or ill will of the other branches of the government '[2]

Tenure during good behaviour till retirement is an excellent principle Appointment by election either by the legislature or the people does not guarantee a long tenure A judge appointed by the executive has no reason to fear anyone either in the executive or in the legislature, because security of tenure is guaranteed to him He will do his duty without fear or favour and will not only maintain the high traditions of justice but will also try to improve upon them

Dismissal The dismissal of a judge should not be easy, though provision has to be made for the dismissal of grossly

1 *Democratic Government and Politics* (1958) p 403
2 *Elements of Political Science* (1933) p 200

incompetent and corrupt judges Removal of bad judges is as essential as providing security to upright, fearless and independent judges

In India, the President appoints the judges of the Supreme Court and of the High Courts, but the President cannot arbitrarily remove a judge when he notes that he has given an unfavourable verdict in a case against the executive The President of India can remove a judge of the Supreme Court or of the High Court only after Parliament takes the initiative for his dismissal Each house of Parliament, must present an address for the dismissal of a judge this must be supported by a majority of the total membership of that house and by a majority of not less than two-thirds of the members of that house present and voting It is not easy to secure such majority, and the removal of a judge is extremely difficult, though not impossible

In the USA, judges of the Supreme Court can be dismissed by impeachment

In Britain removal of judges is possible only when the two chambers of Parliament present a joint address to the King E B Schulz says The prevailing policy of establishing difficult modes of removal is designed to promote the independence of judges in the settlement of controversies and to prevent dismissals for political personal or other reasons which are unrelated to the fitness for the discharge of judicial responsibilities "[1]

3 Attractive Salary and Service Conditions Attractive salary and service conditions will also be highly favourable for the maintenance of the independence of the judiciary Judges should be paid handsomely and kept above want and temptation Niggardly payment will not enable a judge to maintain a standard expected of him and circumstances will force him to accept gifts or bribes Good service conditions will attract highly qualified experienced and eminent men to judicial service High salary and liberal allowances, and a reasonable pension after retirement will reduce the chances of corruption to the minimum

The power to increase or reduce the salary of a judge must not be in the hands of the executive In India, salaries of judges can not be reduced after their appointment and only during the time of financial emergency the President can retrench the salaries of the judges of the Supreme Court and of the High Courts

1 *Essentials of Government* (1961) p 459

4 **High Qualifications** Judges should be highly qualified and experienced in the field of law, and the state should frame rules to secure the services of the best men Judges should be fully conversant with the constitution and the law and have the ability to interpret law with ease, and, if necessary, fill in lacunae in law when situations demand Generally, every state prescribes a certain minimum academic qualification and exeprience

5 **Separation from Executive** The judiciary should not be under the control of other organs of government, and the principle of separation of powers should be followed The principle of separating the judiciary from the executive should be followed strictly in all states Laski observes "I have already argued that the independence of the judiciary from the executive is essential to freedom In that sense, the doctrine of separation of powers enshrines a permanent truth For it is obvious that if the executive could shape judicial decision in accordance with its own desires, it would be unlimited master of the state "[1]

British India violated the principle At the district level, the Collector–Magistrate or the Deputy Commissioner had wide executive and judicial powers The petty judicial officers at the taluka level were not in a position to do full justice to their jobs, as they had to the toe line of their superior executive officers People at the taluka level found it difficult to get impartial justice, as executive and judicial powers were in the same hands Frequent complaints were heard that officials were extortionate and favoured only those who obliged them This resulted in partial and prejudicial administration of justice, and in many cases miscarriage of justice took place In several parts of India at present, the judiciary has been separated from the executive but the process has not been completed, though 20 years passed since the Constitution (1950) came into force It is a sad truth, that though the standards of courts at the higher level are praiseworthy, the same cannot be said about the judiciary at the lower level An unfortunate development in India is the tendency among judges to hanker after executive posts The desire to get lucrative and high power posts in the executive is likely to impair the independence of the judiciary as ambitious judges will have a soft corner for the executive Chief Justice M C Chagla of Maharashtra became a minister in the central cabinet, and this invited adverse criticism from various quarters

1 *A Grammar of Politics* (1957) p 542

2 Courts

Provision for Appeal In the interests of an impartial and upright administration of justice, every state makes provision for appealing from the lower court to the higher court J A Corry says "In each country the court structure is in the form of a hierarchy with its base on the justices of the peace scattered across the country and on the magistrates in the urban areas, and its apex in a final court of appeal At the lowest level the justices of the peace are laymen without legal training, unpaid or paid only in small fees collected in the course of their work"[1] However competent and well-meaning a judge may be, sometimes mistakes may be committed or for some reason or the other, a prejudiced or adamant judge may fail to mete out justice according to the principles formulated by the state Then the aggrieved party may move a higher judicial authority and appeal to it The higher court sees whether the lower court erred and miscarriage of justice took place Sometimes the higher court confirms the decisions of the lower court, or reverses the decision In certain cases, the higher court may pass a more severe sentence than that of the lower court The fear that parties are likely to appeal to a higher court and that the lower court will get adverse remarks from the superior court make the lower courts conduct themselves properly

Individual Magistrates and Benches of Judges While small courts are presided over by individual magistrates, the higher courts have several judges For instance, in the High Courts and the Supreme Court in India, several judges sit in a bench and hear cases In very important cases in the Supreme Court or in a High Court, all the judges may sit together Important cases are heard by a bench of five judges The relatively less important ones are heard by three or one judge The verdict is passed according to the majority decision of the bench and the judge or judges forming the minority may give their "dissenting opinion"

Two Types of Courts in Federal States In federal states there are two types of courts (1) Federal and (2) State The federal court settles disputes between the centre and the units, and the state courts deal with subjects of state or local importance In the USA there are two sets of courts, whereas in India there is only one The Federal Government in the USA has its own courts like the Supreme Court, Federal Courts of Appeal and District

1 *Democratic Government and Politics* (1955) p 408

Courts In India, there is only one integrated system of judiciary The Supreme Court, the High Courts and the Subordinate Courts belong to the same system The Supreme Court in India hears appeals from the High Courts, but the Supreme Court of the USA does not have such appellate powers

In a dictatorship, judges are the tools of dictators and have no independence worth the name

C Relations between the Judiciary and the Executive and the Legislative Branches

Complete Separation not Possible Government should not be divided into three watertight compartments and it has to function efficiently as an integrated whole While it is necessary in the interests of good government to keep the judiciary separate from the executive, and the legislature, complete separation is not possible The connection between the judiciary and the other organs is bound to exist if the governmental machinery is to move smoothly

Control of Executive over Judiciary The following factors explain the unavoidable control of the executive over the judiciary

(1) The verdicts given by courts have to be enforced with help of the executive

(2) In European countries the judicial service is a branch of the general civil service

(3) The judges in countries like Britain and India are appointed by the executive

(4) The executive wields the power to appoint judges, upgrade judges and effect their transfer

(5) The executive has the power to grant amnesty, reprieve or pardon Pardon can be full or partial In cases of courts-martial and administrative courts the executive enjoys powers, which strictly speaking belong to the judiciary

Control of Judiciary over Executive The judiciary also exercises control over the executive It discharges fun tions of an executive type viz appointing receivers, guardians and trustees, and granting licences and permits The judiciary can exercise control over the executive by trying cases in which the executive is invol ved Members of the executive, except the highest executive can be asked to appear before courts The executive cannot cast aspersions on the judiciary for such aspersions will be treated as contempt of court

Control of Judiciary by Legislature The legislature also exercises control over the judiciary In some countries the judiciary is created by laws passed by the legislature In the USA, the number of judges and their emoluments are prescribed by the Congress All judicial appointments made by the President in the USA have to be ratified by the Senate District Judges in the USA depend much on the good will of Senators for appointment In some states, the legislature has judicial powers For instance, in Britain the House of Lords is the highest court of appeal

Control of Legislature by Judiciary The judiciary can exercise control over the legislature In India and the USA the federal states having written constitutions, the judiciary is empowered to declare any law contrary to the provisions of the constitution as *ultra vires* of the constitution Therefore the legislature has to pass laws strictly according to the provisions of the constitution and shall not exceed the powers granted to it

D Functions of the Judiciary

The following are the important functions of the judiciary

1 Giving Justice According to the Law

The judiciary gives justice according to the law E B Schulz mentions the functions of the judiciary viz "determination of the facts in a case, to decide what law is applicable to a particular controversy, interpreting the applicable law application of the law to the facts of a case, to rectify infringement of rights, administration of property and handling the affairs of persons"[1]

The judiciary hears the disputes between individuals, and between the state and the individual It applies the law, written and customary, to the particular cases and gives verdict "The judiciary is fully equipped with the compulsory powers necessary to bring individuals and documents into court for the fact-finding process and to enforce its judgements In civil suits, the court issues a summons directing the person against whom a suit has been brought to appear and make answer In criminal cases, the defendant is normally already in custody, but the court can when necessary itself direct the issuance of the necessary warrant of arrest (known as a bench warrant)"[2]

Not to Say Whether Law is Good or Bad A judge is not competent to say whether a law is good or bad, as his main func

1 See *Essentials of Government* (1961) pp 448-50
2 J S Roucek and Others *Introduction to Political Science* (1954) p 316

tion is not to make law but interpret it, his duty is to see whether law has been violated and mete out punishment according to the law S Leacock says "Whether the law is right or wrong, just or unjust, is a secondary matter the duty of the judge is to adjudicate upon the law as it is, and not upon the law as it ought to be It is far better that a bad law should work injustice in an individual instance than that a judge by deliberately refusing to recognise it should impair the principle of law itself "[1] For instance, in India in areas where there is complete prohibition, a judge has to apply the law to all cases of the violation of prohibition It does not lie in his power to say that prohibition is undesirable, even if he strongly feels so

Ascertaining Facts and Giving Judgement When any law is violated or any crime is committed, the judge hears both the sides, ascertains facts and then gives his judgment J A Corry observes " The essential primary function of the judiciary is to hear and decide disputes Sometimes, disputes in the courts are entirely concerned with questions of fact, and judges have only to decide the baffling question which party to believe Often, however, a dispute involves differing interpretations of the law and in order to give a decision, the judges may have to determine what is the proper interpretation "[2]

Contempt of Court Punishable When courts try cases , they have to mete out punishment to offenders Laski says "In most states today, the law simply fixes the upper limit of sentence and leaves its actual nature to the unfettered discretion of the judge "[3] Provision has to be made to give full protection to the judges and maintain their *dignity and honour The verdicts given by them* have to be carried out fully and no aspersions are to be cast on them Persons who are present in the courts should maintain *order* and decorum 'Contempt may be committed by failing to obey a court order, by disrespectful conduct in a court room, or actions in connection with a pending case which impede the operation of the process of justice Newspaper comments or other public statements critical of judicial handling of a case may be regarded as contempt. "[4]

1 *Elements of Political Science* (1933) p 199
2 *Democratic Government and Politics* (1955) p 414
3 *A Grammar of Politics* (1957) p 563
4 J S Roucek and Others *Introduction to Political Science* (1954) p 137

2 Interpretation of Law and Filling the Lacunae in Law

Giving Precise Meaning of Law A judge has to determine the precise meaning of law, while trying cases and settling disputes Matters of law are many a time very complicated, and the judge has to make things clear through his verdict Sometimes, it is difficult to make out the meaning of law as applicable to a particular case Times are changing, and according to them the judge has to give the proper interpretation of law While delivering judgements, they should bear in mind not only the letter of the law, but also its spirit Judges should avoid developing a wooden attitude, which takes no cognizance of the spirit of a dynamic society

Creating New Law and Setting Precedents The judiciary is competent to widen the scope and contents of the law When a legislature makes law, it may not be able to forecast all the possible cases coming before courts in future Sometimes, a judge trying a peculiar case in which the law is inadequate, makes use of the principles of justice, equity and commonsense, and creates new laws or sets precedents for the future Laski points out "The court finds the law, but in finding it the court also makes it No statute has ever been drawn that has covered or can cover the infinite variety of acts of which human ingenuity is capable "[1] J W Garner observes "The decisions of the courts which make or declare the law are known as precedents Precedents have doubtless exercised great influence in all systems of law, but their influence has been especially great in the Anglo-American system "[2]

3 Interpretation of the Constitution and Judicial Review

Declaring Laws Intra Vires or Ultra Vires In a country like Britain, the judiciary has no power to sit in judgement on the law passed by Parliament But in countries like India and the USA, if the legislature passes a law which goes against the constitution, the judiciary can declare it *ultra vires* of the constitution The Supreme Court and the High Courts in India enjoy this power The judiciary is competent to declare the precise meaning of an article in the constitution, and see whether law is in conflict with the constitution In the USA in a case in 1803, Chief Justice Marshall of the Supreme Court declared that the Courts in the

1 *A Grammar of Politics* (1957) p 542
2 *Political Science and Government* (1955) p 710

USA had the right to interpret the Constitution and declare any law invalid, if it went against the principles of the Constitution

Judicial Review The power of the judiciary to invalidate a law on the ground that it does not agree with the constitution is called judicial review, this is an important contribution of the USA to political science E B Schulz says "Judicial review is both advocated and opposed on various grounds Its desirability has been debated to a greater extent in the United States than in any other country"[1]

The advantages of judicial review are the following

(1) Judges are competent to make judicial review by virtue of their knowledge and experience

(2) Courts are less biased than legislatures

(3) It guarantees rights of minorities

(4) It protects the rights of the individual

(5) It ensures in federal states that the central and the units respect the provisions of the constitution, and do not exceed their power

(6) It enables the judiciary to act as the watchdog of the constitution

The disadvantages of judicial review are the following

(1) It may make the judiciary a super–legislature

(2) It may violate the spirit of separation of powers

(3) Judges having a permanent tenure may become reckless and irresponsible

(4) It may act as an obstacle to effective government

(5) Judges may follow blindly only the letter of the law totally ignoring its spirit

(6) Judges may overlook the challenges of the changing times and may refuse to move forward For instance, in the USA, Courts upheld slavery and declared any law against slavery as invalid

4 Giving Advisory Opinion

Opinion not Binding In states like India the judiciary has the right and duty of giving advisory opinion when it is sought. Sometimes when highly technical, legal, and constitutional matters need clarification, such opinion may be sought The Supreme Court of India may be consulted by the President in connection with highly controversial matters for its advisory opinion Sometimes tricky constitutional questions may be referred to it for its

1 *Essentials of Government* (1961) p 467

advisory opinion When a serious constitutional dispute between the Uttar Pradesh Legislature and the Allahabad High Court broke out, the President of India sought the opinion of the Supreme Court Similarly, the Governor-General of Canada can seek the advisory opinion of the Supreme Court J W Garner says "In England as is well known, the Crown may and not infrequently does call upon the Judicial Committee of the Privy Council for its opinion and advice upon questions of the law, and it is settled that the House of Lords when exercising its functions as the Supreme Court of appeal may request the opinions of any of the judges"[1] Advisory opinion is not like a verdict and it is not binding on the parties consulting it

In the USA and Australia, the judiciary does not have advisory jurisdiction The US Supreme Court refused to give advisory opinion, when President George Washington asked for it

5 Issuing Injunctions or Restraining Orders

Issuing Writs to Safeguard Rights Courts act as custodians of basic rights When the right of an individual is violated, the individual can move the competent Court, which issues the necessary writ In India the Supreme Court and the High Courts have power to issue such writs Sometimes, even before a right has been actually violated, there may be a strong fear of attempts being made to violate rights In such cases the parties need not wait till the right is actually encroached upon they can approach the proper court for issuing restraining order or injunctions In India, the Supreme Court and the High Courts are custodians of Fundamental Rights

6 Administrative Functions

Sometimes, the judiciary undertakes functions, which are strictly speaking not judicial, but executive Courts can appoint receivers to manage properties in dispute either of individuals or of corporations Courts also appoint guardians of minors, grant licences and register marriages

E Judiciary in India

Integrated Judiciary The USA and India are federations, but there is difference between the judiciary of the USA and the judiciary of India The USA has two systems of judiciary (1) Federal judiciary, and (2) State judiciary India, on the other hand,

1 *Political Science and Government* (1955) p 686

has a single integrated system of judiciary, and the Supreme Court in New Delhi and the High Courts in the various states belong to the same category The Union Laws and the State Laws are not dealt with by separate courts

The Supreme Court The Supreme Court is the highest court in India It has (1) original jurisdiction in any dispute between the Centre and the States, and between the States *inter se*, (2) appellate jurisdiction in civil and criminal cases, and (3) advisory jurisdiction

The Supreme Court acts as the federal court, it is a watchdog of the constitution (1950) and custodian of Fundamental Rights It is also a court of record

The State Judiciary The State Judiciary consists of the High Court and the Subordinate Courts

The High Court The High Court is the highest court in a state Its functions are (1) exercising power of superintendence over all subordinate courts in the state, (2) interpreting the provisions of the constitution, (3) acting as a court of record, (4) exercising original and appellate jurisdiction, and (5) acting as custodian of Fundamental Rights

Record of the Supreme Court and the High Courts The manner in which the Supreme Court and the High Courts functioned since the commencement of the constitution (1950) has inspired confidence in the higher judiciary in India The independence, impartiality and fearlessness of the Supreme Court and High Court Judges have been proved time and again in the course of settling thousands of cases For instance, early in 1970 the Supreme Court struck down as *ultra vires* the Bank Nationalisation Act, 1969 nationalising the 14 major banks of India Earlier in 1967, in the famous Golaknath case, the Chief Justice, Subba Rao gave the verdict that Parliament has no power to amend Fundamental Rights

The judiciary in both these courts served effectively to shield the constitution and upheld the Fundamental Rights of the individual India's federal pattern and democratic principles are safe to a great extent owing to the erudition, impartiality, independence and fearlessness of the judiciary

It is, however, said that judges in India are not p… handsomely as judges are in countries like the USA and …

MAIN POINTS

1 **Meaning and Importance of Judiciary** Branch of government interpreting law and applying it in settlement of disputes Acts as guardian of federal constitutions Judiciary test of excellence of government Protection of law to all and equality before the law

2 **Organization** Competent judges and fair trial necessary Efficiency and independence of judiciary Factors favouring independence 1 Appointment by executive 2 Security of tenure during good behaviour 3 Attractive salary and service conditions 4 High qualifications 5 Separation from executive

Courts Hierarchical Provision for appeal Courts with individual magistrates and benches of judges Two types of courts in federal states

3 **Relations between Judiciary and Other Branches of Government** Control of executive over judiciary Control of judiciary over executive Control of judiciary by legislature Control of legislature by judiciary

4 **Functions of Judiciary** 1 Giving justice according to the law Ascertaining facts and giving judgement Contempt of court punishable 2 Interpretation of law and filling lacunae in law Giving precise meaning of law Creating new law and setting precedents 3 Interpretation of the constitution and judicial review 4 Giving advisory opinion 5 Issuing injunctions or restraining orders

5 **Judiciary in India** Single integrated system Supreme Court High Courts and Subordinate Courts Independence and impartiality of the higher judiciary The Supreme Court acts as Federal Court The Supreme Courts and High Courts act as custodians of Fundamental Rights

CHAPTER 58

RULE OF LAW, ADMINISTRATIVE LAW AND ADMINISTRATIVE TRIBUNALS

In some countries there is the Rule of Law, and in others Administrative Law

A Definition and Meaning of the Rule of Law

All Subject to Same Law A remarkable feature of the English Constitution is the rule of law All people in Britain, whatever may be their rank or status, whether they are government servants or ordinary citizens, are under the supremacy of ordinary law There is no separate law for a particular class of people Government officials and ordinary people are all subject to the same law, and no distinction is drawn between them for the purpose of administering justice There is equality before the law, and all persons will be tried in the same courts according to the same procedure

The rule of law is in contrast to the rule of administrative law as found in countries like France In the system of administrative law government servants are put in a different category as far as their trial is concerned

Dicey's Exposition A V Dicey has the reputation of giving the classical exposition of the principle of the rule of law Dicey says

(1) "That no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land "

(2) " in the second place when we speak of the *rule of law* as a characteristic of our country, not only that with us no man is above the law, but (what is a different thing) that here every man whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals "

(3) "that the general principles of the constitution (as for example the right to personal liberty or the right of public meeting) are with us the result of judicial decisions determining the rights of private persons in particular cases brought before the courts, whereas under many foreign constitutions the security (such as it is) given to the rights of individuals results, or appears to result, from the general principles of the constitution"[1]

Implications of the Rule of Law The implications of the rule of law are

1 **No Special Rights** No individual can claim any special rights contrary to the law of the land There is no room for special rights or privileges with the help of which a person can escape punishment

2 **Equality before the Law** Law does not recognise any distinction between one individual, and another, and there is equality before the law All individuals, whatever may be their religion race social status or culture enjoy the same protection of law and are punished by the same law

3 **No Arbitrary Action** There is no scope for the arbitrary action by the government leading to the loss of life, liberty or property Persons placed in authority in government are bound by the law and shall not act contrary to it

4 **Same Courts and Same Law for All** Government officials and ordinary individuals will be tried by the same courts and the same law will be applicable to all

5 **Rights Results of Court Decisions** Rights of individuals in England are the results of decisions given by courts and are not the products of a written constitution While in countries like India the individual has been given certain fundamental rights by the constitution in England these rights are given by the common law and by the decisions of courts in various cases

B Rule of Law and Changed Context

Limitations to Rule of Law in Britain Since Dicey explained the concept of the rule of law some fifty years ago many changes came over the world, and even in Britain a country famous for its rule of law, the concept had to face the challenge of the changing times and modify itself Britain had to evolve clear limitations to the rule of law

The following factors explain the reality of the limitations to the otherwise strict adherence to the rule of law in England

1 *See Introduction to the Study of the Law of the Constitution* (1962) pp 183–205

1 **Delegated Legislation** *Delegated legislation in recent years has reduced the strictness of the rule of law and softened its edge* While the rule of law is dead against granting any immunities to an individual or corporation, as early as 1909 itself, the Board of Agriculture in Britain authorised the sale of a farm contrary to the normal rule of law The trying judge, Justice Darling gave a verdict in favour of the Board in view of the fact that departments are allowed by the legislature to fill in flesh and blood in law when Parliament can only provide with skeletal legislation Parliament delegates authority to government departments to make the necessary rules and by-laws which have the force of law *Parliament is overburdened with legislative work, and so it has* delegated legislative power to the executive to make by-laws and rules within the broad framework of law passed by it

2 **Wide Discretionary Powers to Officials** Delegated legislation has led to the grant of wide discretionary powers to executive officials Executive officials have to be armed with discretionary powers to enable them to discharge their duties promptly and efficiently

3 **Powers of Adjudication** Powers of adjudication have been given to executive officials and these have served to water down the rule of law Officials are authorised by law to settle disputes between their own departments and the ordinary citizen The actual exercise of the wide powers of adjudication goes against the rule of law E B Schulz observes 'Administrative adjudication occurs when administrative agencies settle controversies arising in the course of policy execution through a process requiring a hearing, the giving of notice, the presentation of evidence and the handing down of a decision concerning legal rights and duties If every such settlement had to await recourse to the ordinary courts, governmental operations could not be carried on effectively and with proper dispatch "[1]

4 **Special Protection to Government Servants** In recent years, government servants have been granted special protection Laws like the Public Authorities Protection Act, 1893 and the Limitation Act of 1939 afford protection to government servants, thus violating the rule of law For instance, action against a public servant in Britain is time-barred, if it is taken six months after the act of omission or commission by him

1 *The Essentials of Government* (1961) p 444

No Departure from Rule of Law in Spirit However, it must be noted that the hurdles or limitations in the path of the rule of law do not indicate Britain s departure from the true spirit of the rule of law England still clings to the rule of law, and any limitations that came to be imposed on the rule of law simply indicate Britain's flexible attitude England has a tremendous capacity to adapt her institutions to the changing times

How Times Have Changed and Dicey s Stand Is Incorrect England and other countries have realised that Dicey's stand cannot be sustained permanently A government wedded to the principles of a welfare state has to make an all round expansion of its activities in the course of which quasi-judicial powers ha to be conferred on executive officials, if their departments are function smoothly and effectively It is true that officials settlin the cases between their departments and the public have wide discretionary powers (encroaching on individual liberty) and they do not summon witnesses like judges in courts of law, but there is no other alternative If there is no delegated legislation, and if officers are not given quasi judicial powers, it will hardly be possible for a state to make rapid progress Moreover, courts of law will not be able to cope with the ever-increasing work, if all the cases are to be tried by them

Every court of law in a country like India is unable to keep pace with the large number of cases coming before it procedure is tardy and expensive, and a large number of cases are pending settlement

C Administrative Law

Two Sets of Courts Unlike England, France has a system in which there are two types of courts viz Ordinary Courts and Administrative Courts Ordinary courts deal with cases between one individual and another whereas administrative courts try cases between the ordinary individual and government (that is, a public government servant)

Origin in France The system of administrative courts originated in France where it was felt that the judiciary was unnecessarily putting hurdles in the path of the executive The French had a fascination for the principle of separation of powers and during the days of the Revolution laws were passed to deprive the judiciary of the control over the executive In the Penal Code that was drafted, provision was made for the punishment of judge

Administrative Law Regarded as Case Law Administrative law has been regarded as case law, and it has not been codified, Administrative law clearly defines the position, the powers and obligations of all public servants, the rights and obligations of the ordinary citizens in their relations with public officials and the procedure of trying disputes between the public officials and the private citizen Administrative law cannot be discovered in any code, it can be found in the numerous decisions given by administrative courts Administrative law is ' the body of rules which regulates the relations of the administration or of the administrative authority towards private citizens '"[1]

French Experience Favourable From the experience the French people had in their administrative courts, we are compelled to say that the arguments advanced by Dicey against administrative law and in favour of the rule of law do not hold water now J W Garner remarks "The criticism that the French administrative judges are not independent because, unlike the judges of the judicial courts they are removable at the pleasure of the government, has no foundation, in fact since none of them has ever been removed since the establishment of the Third Republic and is not likely to be in the future, and there is no known instance in which the government ever attempted to exert pressure upon them to obtain a decision in its favour "[2] Every country develops institutions suitable to her genius, and the administrative courts in France did not mean the negation of liberty as Dicey feared, but, on the other hand, the French proudly refer to administrative courts as the pillars of their liberties

Advantages The administrative courts in France have the following advantages

(1) *Impartiality* The procedure and decisions of the French Council of State, the highest administrative tribunal clearly show the impartiality of the French system

(2) *Real Redress* While it is difficult, or at times almost impossible, for a private citizen to get redress in his dealings with a government officer, who is hauled up before a court of law in Britain, it is possible to get real redress from administrative courts in France J W Garner says ' Originally established to protect

1 Quoted in A V Dicey *Introduction to the Study of the Law of the Constitution* (1962) p 332

2 *Political Science and Government* (1951) p 721

the administrative authorities from interference on the part of the judicial court, the administrative jurisdiction has become the protector of the individual against the arbitrary and illegal acts of the government and its administrative agents, and it may be safely said that in consequence of the extremely liberal jurisprudence which the Council of State has built up and the solicitude which it has shown for the protection of the individual against the wrongful acts of the government, the individual in France today enjoys a greater degree of protection against such acts than exists in any other country"[1]

(3) Better Judgement Judges of administrative courts have better knowledge of technical matters than their counterparts in ordinary courts, and so they will be able to give better judgement than the judges in the ordinary courts

D Defects in Administration of Justice, and Administrative Tribunals

1 Defects in Administration of Justice The system in which justice is administered in most of the states leaves much to be desired The following defects can be mentioned

(1) Legal Justice Parties going to a court of law may not secure justice as the ordinary man understands What they secure is justice in "legal" terms and not in moral terms What is "justice" legally speaking may be "injustice" morally speaking

(2) Procedures Procedures in a court of law are rigid and long, and not infrequently, true justice may suffer in the maze of judicial procedures An ordinary man may stand totally confused and baffled before the complex court procedures

(3) Costly Justice is very expensive and it is far beyond the means of an ordinary man Vast distance of the court of law from the litigant's residence court fees, lawyer's fees and miscellaneous expenditure discourage an individual from going to a court of law As justice is very costly the poor who are pitted against the rich are at a great disadvantage

(4) Inordinate Delay The settlement of a dispute in a court of law entails inordinate delay, and this may have the effect of defeating the ends of justice In many cases litigants suffer much and lose all interest in the "administration of justice" as the delay seems to have no end

Condition in India The administration of justice in India has all the defects stated above Thousands of cases in the various

1 Ibid p 717

courts of India are hanging fire It is not surprising, therefore, that "worldly" wise people refrain from going to a court of law, unless they are driven to the wall

2 Administrative Tribunals

Aversion to go to a court of law, the general social bias against the system of administration of justice and other factors have led to the establishment of Administrative Tribunals The government in a country may establish special tribunals like the Licensing Authority for Public Service Vehicles, the Special Commissioners of Income Tax, Rent Tribunals[1], Labour Tribunals etc

Administrative Tribunals confer the following advantages on the people in a state

(1) Procedures in the Administrative Tribunals are simpler and more realistic than those in a court of law

(2) Parties to a dispute are able to secure justice more promptly than in an ordinary court of law

(3) The expenditure incurred by parties is relatively low

(4) Judicial or quasi-judicial officials presiding in the Administrative Tribunals are quite conversant with all the technical details about the disputes before them, and are in a position to give speedy justice

Administrative Tribunals in Various Countries

India The need of settling diverse types of cases speedily and the difficulties facing ordinary courts of law to cope with the ever-increasing number of cases have necessitated the creation of administrative tribunals or administrative bodies vested with quasi-judicial powers The Constitution of India (1950) has armed the legislature with the power to pass statutes for creating these bodies

In the various States of India, there are administrative bodies vested with powers of adjudication e g (1) the Transport Authority created by the Motor Vehicles Act, (2) the Rent Controller in accordance with the Rent Control Act, (3) the Custodians and Custodians-General of Evacuee Property appointed under the Administrative Evacuee Property Act

Besides, several judicial tribunals like the Income Tax Appellate Tribunal, the Labour Courts and the Labour Appellate Tribunals have been set up

1 See G C Moodie *The Government of Great Britain* (1966) p 152

To ensure that the different administrative bodies and judicial tribunals do not exceed their authority and behave in an oppressive and tyrannical manner, provision has been made to allow appeals from the decisions of these bodies to the High Court of the State in which these bodies function

Britain As we have seen, England does not have a written constitution, and her political institutions arose through an evolutionary process Administrative tribunals also grew in the same manner to meet the requirements of the changing times A comprehensive and systematic organisation of administrative tribunals and administrative bodies vested with semi-judicial powers, was not provided for, and these grew piece-meal in an unplanned manner

The National Health Service Tribunal, the School Tribunals, the Rent Tribunals and the Railway Courts are examples of administrative tribunals

USA The USA too has a large network of administrative tribunals, which can be brought under four categories (1) Licensing Authorities like the Civil Aeronautic Authority, (2) Special Administrative Courts like the Board of Appeal in the Patents Office, (3) Independent Administrative Courts like the Court of Claims and Income Tax Courts, and (4) Regulatory Bodies like the Federal Trade Commission

In all countries having administrative tribunals, steps have been taken to prevent miscarriage of justice, and to protect the individual from high handedness, oppression and tyranny

MAIN POINTS

1 **Meaning of Rule of Law** All subject to the same law Dicey's exposition 50 years ago—1 No special rights 2 Equality before the law 3 No arbitrary action 4 Same courts and same law for all 5 Rights results of court decisions

2 **Rule of Law and Changed Context** Dicey's stand cannot be sustained now Limitations to rule of law in changing times Reasons—1 Delegated legislation. 2 Wide discretionary powers to officials 3 Powers of adjudication 4 Special protection to government servants

3 **Administrative Law** Two types of courts. Administrative law regarded as case law French experience of administrative law favourable Reasons—1 Impartiality 2 Real redress 3 Better judgement.

4 **Drawbacks in Administration of Justice** (1) Justice secured is legal and not moral (2) Long procedures (3) Justice is costly (4) Inordinate delay

5 **Administrative Tribunals** Social bias against law courts and other causes led to the establishment of Administrative Tribunals which can settle disputes speedily Procedures are comparatively simple

Section XVI

SEPARATION OF POWERS

CHAPTER 59

MONTESQUIEU'S THEORY OF SEPARATION OF POWERS

Governmental powers can be distributed territorially and functionally

A Functional Distribution of Governmental Powers

Legislative, Executive and Judicial Functions In the case of the territorial distribution of powers, we deal with the distribution between the centre and the units in a federation, and with the division of powers between the centre and the provinces in a unitary state

In the case of functional distribution, powers are divided among three branches or organs of government the legislature, which enacts laws, the executive, which enforces them, and the judiciary, which interprets them

Each Branch Dealing with Its Own Functions Primarily Each branch of government deals mainly with the functions assigned to it, though in a subsidiary way, it may also deal with functions, whose main concern is that of the other branches For instance, the legislature mainly deals with the enactment of law, though it may have also something to do with executive and judicial functions similarly, the executive may also do functions which can be described as legislative and judicial, and the judiciary may have functions, which can be called executive and legislative

Willoughby's View The distribution of governmental powers on a functional basis has been widely accepted, though in recent

years, some thinkers do not agree with the three-fold division For instance, Willoughby desires to recognise the electorate and the administration as separate branches of government, but Willoughby's stand is not convincing Though the electorate and the administration play a very important part, they cannot be regarded as separate branches The administration is a part of the executive and the legislature is linked with the electorate

Advantages Functional distribution of powers has the following advantages

(1) Work does not become unwieldy to any one branch of government

(2) Each branch can specialise in the field assigned to it

(3) Power does not get concentrated in the hands of one branch only

(4) Governmental machinery runs smoothly

B Montesquieu's Theory

Regarding functional distribution of powers in his book *The Spirit of the Laws* (1748) Montesquieu, the French scholar developed a theory, which is called the theory of separation of powers Even before Montesquieu there were authors who dealt with the separation of powers, but none of them expounded a theory as scientifically and thoroughly as Montesquieu did

Dim Ideas of Separation of Powers in Ancient Times In the ancient times, Aristotle in his *Politics* mentioned three parts or branches of government viz the deliberative, the executive and the judicial but in the days of Aristotle political science had not developed much, and the conditions found in the eighteenth century in which Montesquieu wrote *The Spirit of the Laws* were absent in the days of Aristotle

In ancient Rome, Polybius and Cicero praised the Roman Constitution for the system of checks and balances All power in the Roman Republic was not located in one body Officials checked one another and the different bodies too did the same

For many centuries since Cicero wrote there was no talk on the separation of powers but in the fourteenth, Marsiglio of Padua drew a line of distinction between the executive functions and the legislative functions of government

In the sixteenth century, Bodin underlined the importance of separating the judiciary from the control of the king so that impartial justice was possible

In the seventeenth century, Harrington and Locke in England spoke of the principle of separation of the powers of the executive from those of the legislature According to Locke, there is the temptation "for the same persons who have the power of making laws to have also in their hands the power to execute them " In his *Civil Government*, Locke spoke of three types of powers legislative, executive and federative By federative powers, he meant dealing with foreign affairs While he had no objection to the linking of executive and federative powers, he strongly opposed the concentration of legislative and executive powers in the same hands

Concern Regarding Liberty in the Eighteenth Century and Montesquieu's Work The question of distribution of powers assumed great importance in the eighteenth century, in which political philosophers were very much concerned with the problem of liberty It is of importance to note that two mighty revolutions broke out in this century the American (1776) and the French (1789)

Montesquieu gave systematically in his classical theory the ideas embodied in the thought of his predecessors He put forth his theory with a particular reference to the protection of liberty Liberty had to be shielded from tyrants and autocrats, and the principle of separation of powers was to be the hield Montesquieu said "The political liberty of the subject is a tranquillity of mind arising from the opinion each person has of his safety In order to have this liberty, it is requisite that the government be so constituted that one man be not afraid of another There would be an end of everything, were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers that of enacting laws, that of enacting the public resolutions, and of trying the cases of individuals "

The American and the French revolutionaries shed blood for Liberty, Equality and Fraternity

Liberty only through Separation of Powers Montesquieu came forward with his theory, which stated, that liberty could be had only through the separation of powers According to Montesquieu, "there are three sorts of power in every government legislative, executive and judiciary If these powers or any two of them are united in the same hands, individual liberty is threatened Hence, he urged the importance of entrusting each department of government to a distinct and independent organ "[1] J A Corry points out

1 R G Gettell Political Science (1956) p 210

"One man or group of men should exercise substantially all legislative power and at the same time have no extensive share in or control over executive or judicial power No one body of men can be entrusted with the monopoly of force possessed by government"[1] Montesquieu's theory was immensely valued by all who were fighting for the sake of liberty

Distribution of Powers among Two or More Mutually Independent Branches of Government E B Schulz says "The doctrine of separation of powers calls for the distribution of powers among two or more mutually independent branches of government It requires organizational arrangements, which enable each branch to exercise its designated powers without being obliged to submit to the dictates of the others None of the several branches is the superior of the others none is answerable to the others for the use it makes of its discretionary powers Powers responsibilities and controls are dispersed rather than centred in one place [2] The theory stands for making the different branches of government independent of one another

Methods of Securing Independence of Each Branch of Government Independence can be secured by each branch of government by the following ways

(1) by having a written constitution, which will clearly lay down the powers of each branch

(2) by appointing separate persons in charge of each branch,

(3) by selecting persons of a branch in a way, which would make them independent of the other branches and

(4) by seeing that one branch does not have the full authority of dismissing the personnel of the other branches [3]

Basic Principles of the Theory The following are the basic principles of the theory

1 No Concentration of Powers Powers should not be concentrated in the same person or in the same bodies of persons Different powers must be vested in separate persons or bodies If all kinds of powers are put in the same branch of government, there is bound to be tyranny

2 Diffusion of Powers Needed Concentration of powers is prevented and diffusion of powers is possible by applying the theory

1 *Democratic Government and Politics* (1958) p 91
2 *Essentials of Government* (1961) p 234
3 Ibid pp 234-35

of separation of powers, that is, by bringing about a division of powers on the basis of functions Fusion of powers, Montesquieu argues, is dangerous to individual liberty He says "When the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, and execute them in a tyrannical manner Again, there is no liberty, if the judicial power be not separated from the legislative and executive"

3 **Each Branch of Government to be Assigned Its Own Functions and Powers** Human nature being what it is, a person who is given power "is apt to abuse it and to carry his authority until he is confronted with limits' Each branch of government must therefore be assigned its own functions and powers beyond which it should not go, thus there will be a balance in the governmental machinery, and one branch will act as a check on the other branches This method of one branch halting the power of the other branches will act as an antidote to despotism

4 **System of Checks and Balances** The theory involves a system of checks and balances E B Schulz says "The doctrine of checks and balances is usually supplementary to the separation of powers principle of organisation Its distinguishing feature is the idea of enabling each of several co-ordinate branches of government to wield a limited degree of control over the others either by participating to some extent in the exercise of powers allocated primarily to a particular branch or by making the effective functioning of each branch contingent upon the supporting action by the others"[1] The executive wields some control over the legislature and the judiciary the legislature over the executive and the judiciary, and the judiciary over the executive and the legislature

British Influence on Montesquieu The influence of the English constitution on Montesquieu was indeed great, this is an interesting fact because today the cabinet system as found in Britain stands as a negation of the principle of separation of powers It is obvious that Montesquieu did not forecast the rise of the full-fledged parliamentary form of government (in which there is fusion of powers) as found in Britain today The great contrast between Britain and France to which Montesquieu bore

1 Ibid p 236

witness influenced him very much What he saw in Britain during his visit in 1726 had a profound impression on him

In Britain, the Parliament curbed the power of the King, and the Glorious Revolution of 1688 showed the triumph of Parliament over the autocratic Stuarts, but in France the Estates-General never met, and the liberty, which the English people had was conspicuous by its absence in France Montesquieu incorrectly thought that the secret of British liberty lay in the functional distribution of powers, though the British parliamentary system stood for the principle of fusion of powers as against the principle of separation of powers England had an independent judiciary, but in France the judiciary was servile to the monarch In France, there was no separation of powers, all power was concentrated in the hands of the King and his advisers

Montesquieu thought that the only remedy to get rid of despotic power was the application of the principle of separation of powers

In dividing the powers among the three branches, Montesquieu went far ahead of Locke

Blackstone's View Like Montesquieu's The views of the English jurist Blackstone were similar to those of Montesquieu, and he also expressed himself against the concentration of powers Blackstone says "Whenever the right of making and enforcing the law is vested in the same man or one and the same body of men, there can be no public liberty The magistrate may enact tyrannical laws and execute them in a tyrannical manner since he is possessed in his quality of dispenser of justice, with all the power which he as legislator thinks proper to give himself Were it (the judicical power) joined with the legislative, the life, liberty and property of the subject would be in the hands of arbitrary judges whose decisions would be regulated only by their opinions, and not by any fundamental principles of law, which though legislators may depart from, yet judges are bound to observe Were it joined with the executive, the union might be an overbalance of the legislative ' Thus like Montesquieu, Black stone also finds tyranny in concentration of powers

MAIN POINTS

1 **Functional Distribution of Powers** Legislative executive and judicial functions

2 Montesquieu s Theory Dim ideas of separation of powers in ancient and medieval periods Concern regarding liberty in the eighteenth century and Montesquieu s work Liberty only through separation of powers Distribution of powers among two or more mutually independent branches of government

3 Basic Principles 1 No concentration of powers 2 Diffusion of powers needed 3 Each branch of government to be assigned its own functions and powers 4 *System of checks and balances*

British influence on Montesquieu Blackstone follows Montesquieu

CHAPTER 60

THE APPLICATION OF MONTESQUIEU'S THEORY OF SEPARATION OF POWERS

A Interpretation of Montesquieu s Theory

Whether Complete Separation or Limited Separation Montesquieu's theory of separation of powers has not been interpreted in the same way by all writers It is difficult to ay what precisely the French scholar meant by separation Those who thought that Montesquieu was in favour of a complete separation of powers criticised him severely, whereas others who did not take Montesquieu's separation as complete and thorough saw much sense in the theory

Writers like Finer and Sabine believe that Montesquie advocated only a limited separation of powers

B Influence of Montesquieu s Theory

Influence on Various Governments Whatever may be the interpretation of Montesquieu s theory, its influence was profound particularly on the constitution-makers of America and France The theory was also applied to the constitutions of states like Argentina, Brazil, Chile and Mexico which followed the American Constitution as their model

American Constitution an Essay on Separation of Powers Finer is of the opinion that the Constitution of the USA is "an essay in the separation of powers and is to-day the most important polity in the world which operates upon that principle ' This emphasizes the profound influence of Montesquieu on Americans Jefferson and Madison in the USA had a high opinion of Montesquieu's theory and always felt that Americans should have the type of liberty as conceived by Montesquieu on the basis of separation of powers The makers of the American Constitution assigned powers separately to each of the three branches of government, thus they followed Montesquieu's principle without being explicit about it R G Gettell says "At the time of the framing of the early state constitutions and of the national constitution the

influence of Montesquieu and Blackstone was powerful, and their ideas were accepted as political axioms by the early American statesmen In the *Federalist* Madison argued that the accumulation of legislative, executive and judicial powers in the same hands was the very definition of tyranny"[1]

Roucek and others point out that property-owners in America were afraid that those without property forming a majority might use their powers in government to redistribute property Gettell adds "Madison, John Adams, Alexander Hamilton and George Washington, all expressed themselves as heartily in favour of the three-fold separation of powers and as believing that the concentration of all governmental powers in the same hands was the essence of tyranny the primary purpose was the desire of the aristocratic and middle class groups to protect their positions of property and privilege'[2]

Here it may be emphasised that Americans stood against all British political institutions and principles, including the principle of fusion of powers

Influence on France The impact of the theory on the French constitution-makers was also great In drafting the famous document *The Declaration of Rights of Man* the French made it clear that "every society in which the separation of powers is not determined has no constitution" As indicated by Montesquieu, the French Constitution of 1791 separated the executive from the legislature and also set up an independent judiciary

Decline of Theory The following factors explain the decline of the theory of separation of powers

1 No Need of Such Theory in the Nineteenth and Twentieth Centuries The problems of the nineteenth and twentieth centuries are quite different from those of the eighteenth. While the masses of people in the eighteenth century were in need of a theory which would be an antidote to despotism, in the twentieth century there is no crying need for such a theory, as there are several devices to check autocratic power

2 Need to Give More Powers to the Executive The [illegible] of the concept of the welfare state necessitated putting more [illegible] power into the hands of the executive. Owing to delegated [illegible] the executive is doing now what the legislature [illegible]

1 *Political Science* (1956), p 211
2 Ibid pp 211-12

the past As the legislature has time to pass only the broad out lines of laws, the executive is delegated power to fill in all the necessary details Similarly, much against the principle of separation of powers, the executive is also doing judicial function Executive officers are given wide powers of adjudication There is no regret as regards the increase in the powers of the executive In fact, it felt that it is necessary, and it is in the best interests of the w fare of the people In the days of Montesquieu, the range of th functions of the state was narrow Had Montesquieu been livin today, he would not have spoken the same words and the empha sis on separation would not have been there

3 **Democracies following the Theory Discredited** Democratic governments paying much heed to the principle of separation of powers were discredited in the twentieth century by their failure to solve problems of the masses of people Dictatorships rose, and whatever be the technicalities actually all kinds of power were concentrated in the hands of dictators In the communist states of Russia and China, no respect whatsoever is paid to the principle of separation on the other hand power is highly concentrated in the hands of the communist party, whose chief leader is the dictator

4 **Other Methods to Safeguard Liberty** In the twentieth century, methods other than the theory of separation of powers have been applied to safeguard liberty viz by the establishment of the rule of law, by the organisation of an independent and impartial judiciary and by the organisation of political parties

C **Evaluation of the Theory**

Merits The following are the merits of the theory

1 **Gave Spirit of Liberty** It is necessary to understand the proper spirit of the theory Though it is possible to cavil at Mon tesquieu for several reasons, there should be no criticism for its own sake A thorough study of the theory in its relevant context and the spirit behind it shows that substantially Monte quieu was correct We living in the twentieth century with more political knowledge at our disposal than the people in the eighteenth century can easily afford to speak in terms of demolishing the theory altogether without understanding the proper spirit of the theory Montesquieu's spirit was to prevent the rise of tyranny and safeguard the liberty of the individual

2 Gave an Eternal Truth In fairness to Montesquieu, it has to be stated that he gave an eternal truth in political science that in the same person or in the same branch of government all kinds of powers should not be concentrated Taking the age of Montesquieu into consideration, we have to give credit to him At present we should broadly take up Montesquieu's principle of separation of powers without making a fetish of complete separation of powers

3 Theory Modified to Suit Modern Conditions The theory has been modified to suit the conditions at present, and in fact, several states have followed the true spirit of the theory in framing constitutions Modern states have, broadly speaking, distributed governmental powers on a functional basis among the legislature, the executive and the judiciary to prevent the concentration of powers in the same hands Particularly, all modern states value the principle that the judiciary must be separated from the executive and the judiciary must not be thrown to the tender mercies of the executive or of the legislature, and the tenure and emoluments of judges should not depend on the caprice of the persons wielding power in the other branches of government One of the Directive Principles of State Policy in India calls upon the Government to separate the judiciary from the executive

4 Specialisation by Each Branch of Government Besides preventing the rise of unwholesome concentration of powers and consequent tyranny, the principle of separation of powers enables each branch of government to specialise in its own line and discharge its functions efficiently

Demerits of the Theory The following are the drawbacks of the theory

1 Need of Coordination rather than Separation of Powers Critics of the theory speak of coordination of powers rather than separation R G Gettell observes "Some writers argue that the functions of government do not fall into three classes, but these critics differ as to the proper classification, some arguing for a two-fold separation, others, for a five-fold separation The second line of attack denies the possibility or desirability of separating the departments or of setting up elaborate checks and balances, and argues for a coordination of governmental functions into a harmonious and unified system "[1]

1 *Political Science* (1956) p 212

2 Organs of Government not Watertight Compartments Governmental machinery has to be treated as an integrated body, and none of the three organs can be torn out from it The three organs must cooperate with one another and work harmoniously Gettell points out "No government can be organized on the basis of a complete separation of legislative executive and judicial functions In all modern states, these departments are more or less related and dependent, and each exercises powers which under a strict application of the theory, belong to the other"[1] If the principle of separation of powers is applied in its complete form disregarding the realities, governmental machinery will come to a standstill Though each branch must be given the importance that is due to it, it is neither desirable nor feasible to separate one organ completely from the others The legislature has to depend upon the executive and the judiciary, for the laws made by it have to be enforced and interpreted In the same way, the other branches are interdependent The essential principle to be noted is that none of the branches must be made entirely dependent on others for its very existence and functioning for this will surely lead to tyranny or despotism

3 Only Partial Separation Possible Critics point out that only partial separation is possible and there is much interdependence between organs Even in the USA, whose constitution-makers valued Montesquieu's theory very much, there has been no complete separation of powers The US President does not depend on the legislature for his tenure of office, and in the same way the President cannot dissolve the Congress But the President has been given functions, which can be described as legislative or judicial For instance, he has the right to send messages to the Congress and he also exercises the right to pardon This means, he is given some legislative and judicial power Similarly, the Senate has the right to ratify the treaties made by the President The legislature in the USA has judicial function in the sense that it serves as a court of impeachment of the President The House of Lords in England acts as the highest court of appeal The judiciary in the USA exercises control over the legislature by its power of judicial review, it is competent to declare any act of the legislature as *ultra vires* of the constitution, if it goes against the provisions of the constitution Thus even in the USA the theory has not been applied rigorously In fact, it would have been absurd even to think of

1 Ibid p 214

applying the theory blindly, and rigidly by completely ignoring the reality of interdependence between two governmental organs Nowhere *in the world it has been possible to bring about* a complete separation of powers Even in the USA, in the light of experience the Americans had to water down their view regarding separation of powers and *the principle of checks and balances*

4 Need to Modify Separation of Powers The principle of checks and balances, which depends on the principle of separation *of powers cannot be rigidly followed, and it has to be modified* The idea of equality among the three organs on which the principle of checks and balances is supposed to work cannot be sustained *in the light of the increasing powers and importance of the executive* in the welfare state

5 Fusion of Powers in Cabinet System In the cabinet or parliametary system, *there is the principle of the fusion of powers* which is contrary to the principle of separation of powers In the cabinet system, the executive emerges from the legislature and is responsible to the legislature So instead of a separation of powers there is a fusion of powers (See Chapter 53 on the Parliamentary Executive for details about the cabinet system) Both in Britain and India, the principle of separation of powers has been rejected It is, however, true that in both the countries the independence *of the judiciary has been secured*

6 Liberty Safeguarded without Separation of Powers Liberty has been safeguarded in Britain and India in spite of a *fusion of powers There can be liberty even when the theory of separa* tion of powers is not rigidly applied Montesquieu went wrong in imagining, that without separation of powers, there would be no liberty In Britain, India and other countries in which there is a fusion of powers, the individual has been enjoying liberty According to Montesquieu's reasoning, the American should have greater liberty than the Englishman, but actually, it is not so England has set up excellent political traditions of a parliamentary demo cracy, in which *the individual is able to enjoy the maximum liberty* Montesquieu, who had deeply admired the spirit of liberty in Britain did not understand the essential features and implications *of the parliamentary system of government*

7 Expected Objective not Realised The enthusiastic appli cation of the theory of separation of powers did not realise the expected objective, *in fact wherever it was applied, its drawbacks*

were evident R N Gilchrist comments "The theory of separation of powers thus indicates only general tendencies It is not an absolute law and experience proves that, where it has been most thoroughly applied, it has not proved satisfactory The cause of its existence, the liberty of the people, does not depend on the rigid division of powers, but upon other things"[1]

Conclusion We may conclude by saying that concentration of powers should be avoided, and the principle of separation of powers should be applied wherever possible in a modified form

MAIN POINTS

1 **Influence of Montesquieu s Theory** 1 Influence on America France and other countries American Constitution an essay on separation of powers 2 Causes of decline of the theory in the nineteenth and twentieth centuries 1 No need of such theory 2 Need to give more powers to the executive 3 Democracies following the theory discredited 4 Other methods to safeguard liberty

2 **Merits of Theory** 1 Gave spirit of liberty 2 Gave an eternal truth 3 Theory modified to suit modern conditions 4 Specialisation by each branch of government and prevention of concentration of powers

3 **Demerits** 1 Need of coordination rather than separation of powers 2 Organs of government not watertight compartments 3 Only partial separation 4 Need to modify separation of powers 5 Fusion of powers in cabinet system 6 Liberty safeguarded even without separation of powers 7 Expected objective of separation of powers not realised

[1] ...ples of Pol...

Section XVII

PUBLIC OPINION POLITICAL PARTIES AND PRESSURE GROUPS

Chapter 61 Public Opinion

62 Political Parties Pressure Groups and Lobbies

CHAPTER 61

PUBLIC OPINION

Public opinion is a topic studied under democracy, which is supposed to be a form of government, which respects public opinion

A Public Opinion Its Meaning and Emergence

Difficulty of Definition Like several other terms in political science, 'public opinion' cannot be defined easily, though the expression appears to be simple and self-explanatory As Finer points out, in spite of extensive study on the subject, public opinion "is still perhaps lacking proper analytical definition" 'The diversity of beliefs as to the nature of public opinion makes it necessary to explain how the term is used Certain factors must be considered first, the phrase *public opinion* has in itself no specific meaning, second, there is no generally accepted definition of the term, and third, the area of public opinion research is but vaguely defined '[1]

What People Think and Want to be Made Effective According to Bryce, " public opinion is commonly used to denote the aggregate of the views men hold regarding matters that affect or interest the community ' R H Soltou says "The term is usually applied to *what people think and want for their common life* Public opinion in politics is not just what people think, nor even that part of their thinking, which they express in public, it is what they want

1 J S Roucek and Others *Introduction to Political Science* (1954) p 497

to be made effective in practice There are many things that people like and dislike but what matters in politics is what they like enough to demand, what they dislike enough to resist"[1]

Finer points out that most definitions reveal one of the three *possible* meanings

(1) public opinion as a record of fact
(2) public opinion as belief,
(3) public opinion as will[2]

Propaganda, Indoctrination, Inculcation and Appeal In modern times, the latest scientific devices are being used to develop and influence public opinion There are specialists today all over the world to disseminate new ideas and principles J S Roucek and others explain the meaning of terms like propaganda, indoctrination and inculcation and appeal "At present propaganda is a one-sided effort frequently by secret or undercover methods to present information which the author knows to be at least partially false Indoctrination and inculcation mean a one-sided effort to present information which is untruthful only to the extent that any partial presentation is false An appeal is a frank statement of position usually in the form of an opinion, in which no effort is made to disguise the source or intent"[3] Today the term propaganda carries an unsavoury meaning, and the propagandist is looked upon with suspicion by the public

Public Opinion neither Public nor Opinion R G Gettell says "What is generally called public opinion has been criticised on the ground that it is neither *public* or *opinion* Prevailing opinions are often of a small minority nor of an interested class or of outstanding leaders The masses are often indifferent or ignorant or misinformed In this sense public opinion may not really be public"[4] However, this view is not quite correct, because on certain issues people do have clearcut opinion In India, a large section of the public has expressed itself against prohibition gold control and rigid non-alignment in foreign policy People in India have expressed their opinion on the Bank Nationalisation Act, 1969 In recent days, in the light of large scale defections in political parties in India, public opinion has clearly emerged against them, and many

1 *An Introduction to Politics* (1959) p 197
2 H Finer *The Theory and Politics of Modern Government* (1961) p 258
3 J S Roucek and Others Op cit p 497
4 *Political Science* (1956) p 284

are of the opinion that a presidential system of government in India would have been better than the parliamentary system

Views on Matters Open to Discussion It must be remembered that there can be opinion on subjects which are open to doubt or controversy there can be no opinion on established facts Nobody speaks of public opinion on the need of good government, for this is accepted by all, and is not a subject of controversy J A Corry says ' Opinion is to be defined as consisting of views on matters that are open to discussion A public opinion is one that determines or influences, or may be expected to influence what government does Isolated opinions held by one or a few persons have little immediate influence Public opinion is a view relating to government held strongly enough by a considerable number of people to dispose them to put for action "[1]

Important Role of Public Opinion Today Public opinion plays a vital role in modern democracy, in fact democracy has been defined as government by public consent or government responsive to public opinion There was a time, when government did not care for the opinion of the people, in fact, there was no need to care for it, as the opinion of kings, nobles and priests, only counted in Europe In democratic states today, the old order has gone and it has become history the people and their opinion count much and can even do or undo government R G Gettell points out "During the greater part of human history government was viewed as something exalted and mysterious, beyond the comprehension of the masses The authority of rulers was believed to be of divine origin, and the people were expected to give reverence and obedience, -not to question or criticise the acts of those in authority " All this has changed with the growth of democracy Owing to the sweeping changes that took place in Europe, and the rise of democracy as an important form of government in the nineteenth century, the term '*public opinion*' assumed greater and greater significance The term is frequently used today and even those who do not know its full connotation are fond of speaking of it

Origin of Public Opinion It is difficult to say when exactly the term was used for the first time, though one can refer to the use of similar expressions in the ancient and medieval periods The

1 *Democratic Government and Politics* (1958) p 359
2 Op cit p 284

ancient Romans spoke in terms of *consensus populi* in the legal sense In the middle ages the saying '*vox populi, vox dei*" (voice of the people is the voice of God) gained currency Machiavelli also gave importance to the voice of the people, which he compared to the voice of God The credit of introducing it into political vocabulary in Europe goes to the French writers particularly Rousseau, who perhaps was the first to employ it before the outbreak of the French Revolution

Public Opinion a Social and Political Force not to be Ignored Public opinion is a tremendous social and political force not to be ignored in the modern world In highly advanced democracies much thought has been given to study the problems connected with public opinion E B Schulz observes "Public opinion is generally recognised to be a social force which enters into the calculation of active participants in the governmental process To ignore it might be an invitation to trouble for the political party or parties in control of the legislature or striving to attain control, for individual legislators desirous of retaining their seats or administrators faced with the task of law enforcement "[1] So much is the importance attached to public opinion now-a-days in countries like Britain and the USA that political parties news papers, journals, books, films, radio and television are put to the most effective use to create and mould public opinion in favour of or against something Political parties feel that money invested in the means of shaping public opinion is not lost but well invested, for it is believed that the seizure of political power in a democracy depends much on the possibilities of creating directing and moulding public opinion

Success of Democracy Depending on Effective Public Opinion It is now an accepted fact that the success of democracy depends upon an effective public opinion R G Gettell says 'The success of democratic government depends upon the degree to which the public opinion is sound, well developed and effective in controlling the actions and policies of government "[2] Democracy sets its face against conflict based on violence, but it recognises or even encourages a conflict of opinions In a democracy people are free to express their opinion, provided the opinion is not libellous or defamatory

1 *Essentials of Government* (1961) p 289
2 *Political Science and Government* (1256) p 286

Public Opinion Feared Even in Dictatorship Even in dictatorships, government attaches much importance to public opinion The very fact that public opinion is ruthlessly suppressed and people are forced to develop opinion as approved by government shows how in totalitarian and authoritarian states public opinion is dreaded by the rulers Hitler's government spent large sums of money on propaganda and on controlling public opinion Dr Goebbels put the "manufacture' of public opinion on a scientific basis Hitler believed that the thinking power of the masses is limited and that they understand things slowly and forget them easily He, therefore, used his technique of propaganda with the belief that the masses would believe anything, if it was often repeated Lies can be palmed of as truth, in fact the bigger the lie the better it is

B Formation of Public Opinion

Opinion Formation a Complex Process It is difficult to say how exactly public opinion is formed for it is a very complex process The process can originate in different ways It may begin from the book of a writer, the speech of a leader or a dialogue between two thinkers or leaders What important men and women say or write is carefully watched in a country, in which people are deeply interested in public affairs The thoughts of a great leader reach the public through the newspapers and other agencies of public opinion, and these are bound to provoke at least a section of the population

Importance of Views of Leaders Generally speaking, ordinary people even in advanced countries are not capable of giving original ideas or of thinking correctly They generally voice the views of their leaders, though they may not blindly follow them In backward countries, people can neither read nor think properly, and the process of the formation of public opinion is restricted to a very small circle

Emergence of Public Opinion from Vague Ideas, Prejudices and Beliefs A keen observer finds that public opinion emerges out of a shapeless mass of vague ideas, prejudices and beliefs In the formation of public opinion besides original thoughts and views, all kinds of hazy ideas, beliefs and prejudices play a great part This explains why public opinion may not always be correct it may be subjective on issues on which the public holds strong yet prejudiced views In villages in India, public opinion is favourable to the practice of untouchability, and is against its abolition

This explains why it becomes difficult for government to remove untouchability in spite of the legislation against the practice of untouchability R G Gettell points out "Many so-called opinions are rather prejudices or beliefs or hasty conclusions or traditional dogmas Few persons have the knowledge or the willingness to do the difficult thinking necessary to form opinions Most persons accept ideas given by others and believe them to be their own Public opinion is usually formed by a small group of leaders, and individuals accept their arguments or suggestions, as they have neither the knowledge nor the time nor the interest to enable them to form opinions of their own"[1] The observation of Bryce on the formation of public opinion is significant According to him, public opinion is "confused, incoherent, amorphous, varying from day to day and week to week But in the midst of this diversity and confusion, every question as it rises into importance is subjected to a process of consolidation and clarification until there emerge and take definite shape certain views, each held and advocated in common by bodies of citizens"

Conditions Necessary for Public Opinion The following conditions are favourable for the formation of public opinion

1 **People's Capacity to Think** If people are to give their opinion, they should have the capacity to think and without this there can be no opinion either for or against a certain issue Ignorant or illiterate people are not competent to give their opinion on political and other issues In India, for example, most of the people will not be in a position to say whether non-alignment in foreign policy is good or bad Many people do not know what non-alignment is they have not devoted their time to the study of such questions and the question of expressing opinion for or against non-alignment does not arise

2 **People's Interest in Problems** People must have a high degree of political consciousness and deep interest in studying the problems of government They must have at least some education so that they are mentally equipped and competent to deal with these problems People who are indifferent to what is happening around them cannot entertain any significant opinion on anything

3 **Formation of Groups** People must form groups and communicate with one another regarding the various problems

1 Ibid 285

confronting them Well organized political parties can do much in the evolution of public opinion

4 **Initiative by Political Leaders** Political leaders can take the initiative in creating, directing and moulding public opinion Enlightened and farsighted leaders play a great role in educating the people "politically" and *in cultivating healthy public opinion* For instance, Mahatma Gandhi and Pandit Jawaharlal Nehru released enlightened currents of public opinion

5 **Role of Writers** Good writers can prepare the background for the formation of publi opinion Leaders writers and journalists can provide the public with the neces ary "raw material" for the formation of public opinion The great British philosopher Bertrand Russell wrote much to create favourable public opinion against the horrors of war and for the cause of enduring peace

6 **Homogeneity and Community of Interests** R G Gettell says that homogeneity and community of interests are necessary for the emergence of public opinion " Wide differences in race, religion or class interests interfere with the formation of a general con ensus of opinion on public questions If the political mind of a people is to be sound, there must be, behind minor differences, an essential agreement on the nature of the government to be maintained and the national ideals to be realised "[1] It is hardly possible for white people and coloured people to come together "in a country and hold common opinion, when there is a wide and unbridgable gulf between the two

C Agencies of Public Opinion

Expenditure of Large Sums R G Gettell explains why large sums of money are spent to give wide currency to certain ideas and principles in modern democracies " Because of the importance of public opinion in modern democratic states, much attention, involving extensive organisation and the expenditure of vast sums, is directed to various forms of propaganda intended to form and direct the political ideas of the people In part this *is an honest attempt to educate* and enlighten the people and to arouse their interest in furthering needed reforms or in opposing dangerous proposals "[2]

The following are the most important agencies which influence and mould public opinion

1 Ibid p 281
2 Ibid, p 286

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1 Ibid p 281
2 Ibid, p 286

1 *Political Parties and Associations* Political parties play an important part in the formation of public opinion These can function effectively only when there is freedom of thought and expression Each political party in a country, with the ultimate aim of seizing power places facts, figures and comments before the public through platform, motion pictures, radio, books, magazines, pamphlets, posters and hand bills so that the public becomes convinced about the correctness of its stand and attitude It wishes to win the confidence of the people by creating public opinion in its favour

It tries its utmost to win public support and win the maximum votes for its candidates contesting elections All people are not prepared to "swallow the stuff" that a political party doles out to the public but thought provocation begins only when parties speak out A group of persons may feel that the views of the party are correct, whereas another group may feel that they are entirely wrong and untenable The rise of attitudes, which are opposed to each other has a profound effect on the formation of public opinion Political parties play a vital and significant role in starting and feeding the thought process The Indian National Congress, the Swatantra Party, the Jana Sangh and the Communist Party in India, the Republican Party and the Democratic Party in the USA and the Conservative and the Labour Parties in Britain play a conspicuous role in influencing and moulding public opinion The Congress party in India tries to impress upon the people's mind that its stand is always right by making use of the various agencies of public opinion The Jana Sangh and the Swatantra parties try to create opinion in their own favour and at the same time against the Congress (For details regarding the role of political parties see Chapter 62)

Associations also play a conspicuous part in the growth of public opinion Gettell points out ' In the United States such organisations as the American Federation of Labour, the Congress of Industrial Organisations Political Action Committee the National Association of Manufacturers the National Education Association, the American Legion and the Grange have been active in influencing public opinion for or against certain measures '[1]

2 *Public Platform* Political leaders, scholars journalists and other people can express their at public meetings and influence

1 Ibid p 288

public opinion On the eve of elections, public platforms are fully exploited Every speaker puts his views before the people to convince them that his stand or that of his party is correct and better than that of the other parties and individuals The public gets the advantage of various types of opinions and view points expressed through the public platform Members of the public have a deep interest in the burning issues of the day and they are eager to listen to people who can throw light on these issues Great leaders, ministers and influential persons have numerous opportunities of using the public platform to give expression to their attitude and views

3 *Press* Among the various agencies of public opinion, the press occupies the first place The press gives the written word and this carries much weight Daily newspapers, journals, periodicals and pamphlets also play a great part in the formation of public opinion The press can play an effective role only when it is completely free and unshackled A government controlled press or a press which is the mouthpiece of vested interests cannot play the proper role in creating and moulding healthy public opinion The press in highly advanced countries enjoys much freedom and it has set up very high standards

Newspapers supply news and views from time to time Their influence is great, because they reach a large number of people in the four corners of the country, some newspapers reach the various nooks and corners of the world Dailies like *The Statesman*, *The Times of India*, *The Hindu*, *The Indian Express*, *The Deccan Herald* and *The Free Press Journal*, weeklies like *The Bharat Jyoti*, *The Organiser*, *The Current*, *Blitz*, *Swarajya*, *The March of the Nation*, *Himmat* and *The Indian Monitor*, and magazines like *The Modern Review*, *The United Asia*, *The Bhavan's Journal*, *The Illustrated Weekly of India*, and *Caravan* are read by a large number of people in India Besides these, there are scores of dailies, periodicals and magazines in the regional languages There are also newspapers and magazines specialising in various subjects like finance, commerce, economics and history

Many people do not have views of their own, but newspapers can help them to form views News of various types, the important daily events, activities of the various political parties, the opinion of leaders inside or outside the government, and the opinion of editors are all available to the public at a low price

Newspapers and periodicals wield tremendous power and influence over the public mind. Influence of newspapers can be put to a good or evil purpose. By their studied views, seasoned opinions and well-worded expressions the better type of newspapers and periodicals exercise a healthy influence on the public mind, and enable readers to think clearly and without passion and prejudice. Certain newspapers and periodicals maintain very high standards and always succeed in resisting the temptation of becoming sensational or of playing to the galleries. They command much attention and influence among sober and enlightened people, who are impressed by their correct, dispassionate and non-partisan approach.

On the other hand, there are newspapers and journals which do great harm to the public by suppressing news, giving false news, presenting sensational editorials, indulging in personal vilification, maligning all and sundry, dishing out scandals, engaging in character assassination and blackmailing important and rich persons. These misuse the freedom of the press and mislead the unwary people. These yellow papers presenting scurrilous print are tolerated in democracies, because every one has the right to express himself and many a time it is difficult to say what exactly represents yellow journalism. They cultivate bad reading taste among the people and prevent them from knowing the truth. Readers, who are the victims of yellow journalism, find it difficult to entertain the right type of opinion.

The press all over the world, including in advanced countries has certain drawbacks.

(1) The press is not entirely free, fearless, unfettered and independent. In fact, it is difficult to find a press which is entirely free, for directly or indirectly certain interests either in the government or outside exert pressure on it. In many countries, the press is owned and controlled by millionaires, who desire that chains of newspapers in their hands should support their views and policies. Editors have no freedom to express themselves freely, but are forced to toe the lines of their "bosses". Governments also exert pressure on the press. Newspapers which criticise the government are discriminated against and denied favours, while those which sing the praise of government policies are given liberal newsprint quotas and advertisements.

(2) The press may not maintain high standards, and may be found wanting in the presentation of authentic news and healthy views

(3) The press may be forced to win support or increase its circulation by placating and serving a particular group of interests It may try to create ill will and enmity among groups and communities

(4) The press may cater to the low tastes of the public, and indulge in blackmailing and character-assassination

4 *Educational Institutions and Associations* Educational institutions, which have also an important place in influencing public opinion prepare youngsters for good citizenship The work of educational institutions may not have an immediate effect in the political field, but its value has to be realised from the long range point of view Schools and colleges enlighten and educate students and enable them to develop their personality Students, who emerge from good schools and colleges in the long run become good citizens and excellent agents of moulding public opinion There is a lot of difference between the reaction of an ordinary man to the policies of a government and the reaction of a learned man coming out of the portals of a great university Good education develops a healthy outlook in youngsters, and equips them mentally to think for themselves Without such men and women, there can be no healthy public opinion

Various political, social, economic and and cultural associations are also instrumental in moulding public opinion

5 *Cinema and Radio* Everywhere in the world the cinema has also become an effective instrument to spread ideas, but it is mainly used for entertainment, commercial purposes and not for educating and enlightening the people Perhaps, if properly exploited, the film can be more powerful than other agencies of public opinion, as few people read books and newspapers, but almost all people see films

The radio too can go far in educating the public The radio has been instrumental in backward countries in disseminating news and views In India with the improvement of the condition of the farmers, radios have entered the rural areas The rural folk have started taking interest in the development of the country, and even those who do not have their own apparatus take advantage of the community radio In most of the countries, the radio is under

government control, and the listeners are fed on governmental propaganda Radio under government control may present one-sided views and mislead the public

6 *Legislature* The discussions in the legislature have immense educational value and can go far in developing healthy public opinion In advanced countries, the standard of discussion in the legislature is high The speeches of members of the government and of the opposition, and the questions and supplementary questions put in the house are reported in all newspapers, and these influence the minds of readers A person studying the discussions in the legislature is in a position to know facts and judge the calibre of the government and of the opposition In the Parliament of India, speeches of eminent men like Pandit Jawaharlal Nehru, Dr Shyam Prasad Mukherji Sardar Vallabhbhai Patel, Pandit Govind Ballabh Pant, Dr B R Ambedkar, Dr C D Deshmukh, Acharya J B Kripalani, Shri H V Kamath, Prof Hiren Mukherji, Prof N G Ranga, M R Masani N Dandekar, Smt Tarakeshwari Sinha, Shri Atal Behari Vajapayi and others had a profound influence on the Indian public opinion

D Public Opinion in Backward Countries

There is a great contrast between public opinion in Western countries and that in backward countries In the West people are educated, and illiteracy is almost absent and therefore strong and enlightened public opinion can be easily formed This is not the case with people living in the backward countries of Asia and Africa Ignorance, illiteracy and poverty are rampant, and these are great obstacles in the way of the formation of public opinion In India, public opinion is really not that of the public, for it is of the elite as given in newspapers The masses of people have neither facts nor opinion, even then they have votes Their opinion is the same as the one given by their leaders from time to time Only a few people are educated and deeply interested in political and governmental affairs and hence only these people can have their own opinion Most of the people in India live in villages in which there are no reading rooms or libraries Very few people read newspapers Difficulties of means of transport and communication have virtually isolated many villages To most of the people in the villages, eking out a difficult livelihood absorbs all their time and there can be no question of having 'luxuries" like public opinion

Generally in India, or in fact everywhere in the world, public opinion emerges in big cities and towns In India the opinion of prominent men in cities like Delhi, Bombay, Calcutta, Bangalore, Ahmedabad and Madras, is generally followed by the public Political parties mostly function well in cities and leave most of the rural areas untouched Only on the eve of elections, parties send their agents to the villages to win support for their candidates Unless poverty is eradicated and literacy spreads fast, it is not possible to have public opinion at all In India one cannot fail to note the malignant influence of caste, creed, religious and linguistic bias Interested parties are fully exploiting these evil influences in giving a particular shape to public opinion Issues are judged not on their merits, but on religious, caste, communal and other considerations

MAIN POINTS

1 **Meaning of Public Opinion** Difficulty of definition Public opinion is what people think and want to be made effective Role of propaganda indoctrination inculcation and appeal Public opinion neither public nor opinion Public opinion only on matters open to discussion Important role of public opinion Public opinion a social and political force not to be ignored Success of democracy depending on effective public opinion Public opinion feared even by dictators

2 **Formation of Public Opinion** Opinion formation a complex process Importance of views of leaders Emergence of public opinion from vague ideas prejudices and beliefs Conditions necessary for public opinion 1 People s capacity to think 2 People s interest in problems 3 Formation of groups and political parties 4 Initiative by political leaders 5 Role of great writers 6 Homogeneity and community of interests

3 **Agencies of Public Opinion** 1 Political parties and associations 2 Public platform 3 Press 4 Educational institutions 5 Cinema and Radio 6 Legislature

Great obstacles to the formation of public opinion in backward countries like India

CHAPTER 62

POLITICAL PARTIES, PRESSURE GROUPS AND LOBBIES

In the study of democracy, political parties, pressure groups and lobbies have an important place In every democratic country, political parties have emerged, though constitutions made no provision for them

A Meaning and Importance of Political Parties

Stasiology In modern times, the study of the political parties has been conducted in a scientific manner The science of political parties is called stasiology The term is derived from the Greek word *stasis*, which means faction "The development of analytical stasiology was propelled by the appearance in 1951 of Maurice Duverger s *Les Partis Politiques* This work with its categorization of party organizations and party system, the critiques elicited by the book and monographs that developed alongside, most of them independently of Duverger's effort caused Sigmud Neumann to write in 1954 'Only of late and at last has the role of the political party entered the centre of our professional concern' Neumann himself took the latest step towards a systematic stasiology with his *Modern Political Parties*"

Organised Group Trying to Secure Control over Government to Push Forward Its Policies Political party is an organized group of citizens holding the same views on public questions, working as a politcal unit and trying to secure control over government with a view to push forward its own principles and policies S Neumann says "We may define *political party* generally as the articulate organisation of society's active political agents, those who are concerned with the control of governmental power and who compete for popular support with another group or groups holding divergent views As such, it is the great intermediary which links social forces and ideologies to official governmental institutions and relates them to political action within

the larger political community"[1] R G Gettell says "A political party consists of a group of citizens, more or less organized, who act as a political unit and who, by the use of their voting power, aim to control the government and carry out their general policies It is the most elaborate and comprehensive form in which public opinion is organized and made effective in government"[2] E B *Schulz* gives a good definition of political party "A political party may be defined as an organized and presumably durable association, either of individuals or of distinguishable groups of individuals, which endeavour to place its members in governmental offices for the purpose of bringing about the adoption of favoured policies"[3]

Identification with One Group and Differentiation from Another Political parties rise in a country because men do not agree with one another, and there are differences of opinion on political and other related questions Persons who hold common or similar views organise themselves into units, which are called political parties Neumann says "To become a party to something always means identification with one group and differentiation from another Every party in its very essence signifies *partnership* in a particular organization and separation from others by a specific programme"[4]

Parties Extra-constitutional in Growth Modern democracies cannot function without political parties, though there is no provision in the constitution for the compulsory formation of parties Parties have risen as extra-legal or extra-constitutional bodies to fulfil the political aims of various types of individuals in the state H R Penniman says "Parties in the older democracies like Britain and the USA came into being unrecognised by either the constitution or the laws of the societies They developed because the constitutions provided for free elections-and free elections, as we have learned require the presence of political parties as the means for presenting alternative policies and candidates to the public for public approval"[5] in countries like Britain and the USA, political parties are now taken for granted, in fact, they have become indispensable

Conflict of Opinions through Political Parties A real conflict of opinions is possible only through well organized political parties

1 *Modern Political Parties* (1956) p 352
2 *Political Science* (1956) p 289
3 *Essentials of Government* (1961) p 303
4 *Modern Political Parties* (1956) p 351
5 *The American Political Process* (1962) p 17

CHAPTER 62

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2 *Different Economic Views and Aims* Political parties are also formed on the basis of differences regarding economic views and aims For instance, rich people and property holders wish to have the *status quo*, whereas those having no property desire to have changes, which will do them good Obviously, the two groups of people belong to different political parties

3 *Environment* Political environments are bound to have effect on the political views of a person The domestic environment goes far in making a man the member of a particular party the political views of a youngster are sure to be influenced by those of his father Very often, the son joins the political party of the father

4 *Religious and Communal Feelings* Religious and communal feelings provide a basis for the formation of political parties While in Western countries, parties are not formed on religious and communal considerations in India religious and communal feelings drove a wedge between groups of people Even now, certain parties in India have religious and communal bias

Parties Held Together by Ideology and Organization If a party is to be strong and well-knit, it should have absolutely clear aims and objectives, principles and ideologies, and well organised machinery "The party is held together by its ideology and organization An ideology is indispensable in the life of a political movement, it is a mechanism essential to the survival and development of a movement Without an ideology a movement would grope along in an uncertain fashion and could scarcely survive in the face of pointed opposition from outside groups"[1]

Well-organised Party, a State within a State A well-organised party with all its elaborate paraphernalia is almost like a state within the state All over the world, political parties have become very powerful organizations, whose influence is felt by all the people. They have a very large membership, very influential and powerful leaders, and huge funds These parties make use of all the agencies of public opinion *to win the support of the people* and capture votes R H Soltou observes "An organised party is almost like a small state within the big one It has its active membership and its passive adherents, its local branches or constituencies, with their agencies for propaganda, fund collecting and recruiting, its election to the party assemblies or parliaments,

1 J S Roucek and Others *Introduction to Political Science (1954)* p 447

Democracy believes in the conflict of opinions, and not in violent conflicts Political parties are organized to have the democratic conflict of opinions

Political Parties Life-line of Politics Political Parties have assumed tremendous importance all over the world "Political parties are the life-line of modern Politics, yet they are largely forgotten as the main path to the study of political thought and practice today The interest in political parties now springing up among our political scientists and historians is a reflection of the silent revolution which has taken place in the modern study of politics "[1] In the advanced states like England and the USA, political parties have organized themselves very well and serve as models to parties in the other countries of the world In the USA the constitution-makers believed that political parties would not serve national interests, and hence they should be avoided But now as far as the state is concerned, they have become as indispensable as air and water Political parties have grown in all parts of the world Though a partyless democracy may be desired very much, it is not practicable Even if we feel that parties are evils, we have to admit that they are necessary evils At present the problem is how to organize the parties well in the best interests of the state

B Origin of Political Parties

Political parties emerged in modern times with the rise of democracy

The following factors explain the origin of political parties

1 *Human Nature* Human nature explains the growth of parties All people by nature do not have the same views, some do not wish to have changes, but desire to hang on to the same old institutions, on the other hand, there are others who desire to have a change for the better The former can be called conservatives, and the latter progressives Thus two parties are formed on the basis of these two attitudes In European countries, parties, which wanted to leave things as they were, came to be called rightist, and parties which wanted progressive changes were called leftist The terms rightist and leftist originated towards the end of the eighteenth century In France, for instance, the progressive members who sat to the left of the President came to be called leftists, and the others who sat to his right were called rightists

1 Neumann (Ed) *Modern Political Parties* (1956) p 1

2 *Different Economic Views and Aims* Political parties are also formed on the basis of differences regarding economic views and aims For instance, rich people and property holders wish to have the *status quo*, whereas those having no property desire to have changes, which will do them good Obviously, the two groups of people belong to different political parties

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1 J S Roucek and Others *Introduction to Political Science* (1954) p 447

responsible for its choice of leaders and officials and the adoption of the party policy"[1]

C Essential Conditions for the Formation of Political Parties

Certain conditions are essential for the formation of political parties These are the following

(1) Democracy The foremost essential condition for the formation of political parties is a democratic form of government, which believes in the principle of liberty Political parties cannot be formed unless the individual has liberty of though and action Political parties presuppose the existence of various kinds of rights, one of which is to form associations Parties cannot be established, and even if they are formed they cannot function properly under an autocratic government or dictatorship

(2) Keen Interest in Politics Political parties can be formed only when large groups of people are roused by political consciousness and have a keen desire to take part in political affairs Well organised political parties cannot be formed in the absence of a highly conscious and intelligent electorate

(3) Common Objectives A large group of individuals in a state should have common political aims and objectives, and there should be common agreement on the basis of political principles, then alone the individuals of the group can form a political party In the absence of well-agreed fundamental political principles a political party cannot be organised

(4) National Interest Individuals thinking in terms of political parties should have national interests at heart and those intending to form a party should accept unreservedly the principle of protecting national interests Under no circumstances should individuals think of entertaining extra-territorial loyalties

(5) Common Agreement to Play the Game of Politics Decently When large groups of individuals think of forming political parties, they should all bear in mind that all should agree to follow the rules of the game of politics For instance all individuals should bind themselves to the principle of settling all issues peacefully and in a constitutional manner

(6) Ultimate Aim of Capturing Power Individuals planning to form a political party should have the ultimate aim of capturing power by legal and constitutional means All other aims are to be subservient to this basic aim

1 *An Introduction to Politics* (1959) p 206

D Kinds of Political Parties

Conservative, Liberal, Reactionary and Radical Parties Broadly speaking, there are four types of parties

(1) Conservative This type of party desires to conserve the *status quo* and the existing institutions

(2) Liberal This desires to reform the existing institutions

(3) Reactionary This party wants to revive the old institutions, that is, it wants to go back

(4) Radical This desires to change all the existing institutions radically

Rightists and Leftists One way of classifying political parties is into Rightists and Leftists Parties which work for radical changes, and for the introduction of radical legislation are called leftists, and those which desire to move forward slowly and cautiously are regarded as rightists Sometimes, even within the same party, there are two wings rightist and leftist For example, in India, there are rightists and leftists in the Congress In the communist party, such divisions arose, and finally the party broke into two parts and each formed a new party (1) the Communist Party of India, which is rightist (in the relative sense) and (2) the Communist Party (Marxist), which is leftist

E Functions of Political Parties

The following are the functions of political parties

1 *Brokers of Ideas* Political parties play the role of brokers of ideas Neumann says "It has been stated that the primary task of political parties is to organize the chaotic public will They are brokers of ideas constantly clarifying, systematizing and expounding the party s doctrine They are representatives of social interest groups, bridging the distance between the individual and the great community They maximise the voter's education in the competitive scheme of at least a two-party system and sharpen his free choice "[1] Political parties channelise the ideas of the various individuals and groups, and make them effective by giving them proper direction Without their vital role, the opinion or will of the individual would not count Members belonging to a political party espouse the cause of various groups with which they are linked

1 *Modern Political Parties* (1956) p 352

2 *Explaining Its Stand and Policies* A political party must explain its stand, policies and principles, and its approach to the burning problems of the country A political party may not agree with the policies of the government, and it may criticise them within and outside the legislature Then, it owes a duty to the public to explain why the government is wrong and suggest reasonable alternatives It must make its stand clear as regards issues like nationalisation of industries, increase of tariffs, prohibition, foreign policy and so on

3 *Enlightening and Educating the Public* Another important function of a political party is to enlighten and educate the public Though the primary aim of a party is to seize power, it should try to educate the public by furnishing it with facts and figures about various matters A well-organized party clearly tells the electorate about its attitude towards the various problems confi ting the country This will indirectly educate the people and en them to develop a particular opinion E B Schulz says "Tl educational activities are carried on n various ways e g throu speeches from the platform and over the radio, by the publicati and distribution of literature of one description or another, ar by the house-to-house canvassing of voters Although politica parties as 'educators', usually show bias, their 'pupils are a least exposed to a variety of points of view Moreover popular interest in governmental affairs is stimulated by competition among parties in their efforts to indoctrinate and inform the voting public [1]

To enlighten and educate the public, a party needs a well-knit organisation, which can enable it to fulfil its obligations to its mem bers in particular and to the people in general The party needs good leaders and energetic field workers, who can establish contact with the masses of people

4 *Making Efforts to Capture Power* The ultimate aim of a poli tical party is to capture power by peaceful and constitutional means The principles and programmes a political party places before the people cannot be implemented unless it is able to form a govern ment Clinton Rossiter says The primary function of political party in a democracy such as ours is to control and direct the struggle for power From this f all other derive naturally I trust that no a for calling attention to the fact that the nee country is essentially

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1 *Essentials of Gove*

a conflict, limited and regularised but nonetheless relentless, among groups of men who have contradictory interests and more or less mutually exclusive hopes of securing them "[1] A political party works hard to capture the imagination and win the support of the people It contests elections, chooses proper candidates to stand on its behalf, and if it succeeds in capturing the requisite number of seats in the legislature, it will be able to form govern ment To reach the seats of power, a political party has to do much constructive work and convince the people that it will be able to deliver the goods, if voted to power

5 *To Give Good Government* A political party should be conscious of its responsibility to the people and give good govern ment to them The real worth of a party can be known only when it captures power and governs the people A party, which keeps its promises and does better than the government, which has been defeated at the polls will be able to command enduring support and loyalty of the people

6 *To Form Opposition* A party which is unable to capture power can serve the people by playing the role of an effective opposition party Being in the opposition, a political party has to conduct itself in a responsible manner Its criticism of the ruling party should be effective, but at the same time constructive and dignified An opposition party fails to serve anybody, if it indulges in reckless criticism, mudslinging and other unwholesome tactics In the parliamentary system, the opposition can do much for the people by seeing that the ruling party governs for the good of the people In Britain, the opposition party criticises the ruling party, but it is ready with its "shadow cabinet" to run the government, if the existing party is overthrown

F Different Party Systems

We shall now discuss here three different party systems the Single Party System, the Two Party System and the Multiple Party System

1 The Single-Party System

One-Party Control A single-party system exists in a state in which government is in the hands of a single party, which has no rivals The ruling party does not allow other parties to function In the twentieth century, the single-party system clearly emerged In Soviet Russia, the communist party overthrew the Czarist regime

in 1917, and established a one-party totalitarian state Though the Russian constitution appears democratic, in actual practice it is totalitarian and authoritarian The communist party has in its grip the entire governmental machinery, and dominates over all political institutions in the country In Italy too during the regime of Benito Mussolini, the Fascist party monopolised all power, and all other parties were banned In 1933, Hitler established his one-party Nazi government The Nazis crushed all opposition, and ruled as they pleased In China, the communists seized power in 1949, and established a one-party government All these states viz Stalin s Russia Mussolini s Italy, Hitler s Germany and Mao s China can be called one-party authoritarian and totalitarian states Each of these countries gives an example of a state with one party as a monolith

Merits The one-party system has been criticised severely Some see absolutely no merit in it But this is incorrect The following are the merits

(1) Tremendous all round progress has been possible under the one party system

(2) Government is run efficiently, and no time is wasted in discussions and controversies

(3) There is singleness of purpose and high national discipline

Drawbacks The following are the drawbacks of the single party system

1 The state is authoritarian and totalitarian

2 There is dictatorship People are ruthlessly suppressed

3 People have no liberty While democracies with a double or multiple-party system give individual liberty and uphold the dignity of the human personality a one-party government tramples human values underfoot

(4) One party dictatorship is based on violence aggressive nationalism and war Ultimately the whole country suffers as it happened in Nazi Germany and Fascist Italy

2 The Two-Party System

Ruling Party and Opposition Party The two-party system is one in which there are mainly two political parties one is the ruling party and the other is the opposition party England and the USA are good examples of the two-party system At

present, in England there are two parties the Conservative Party and the Labour Party In the USA the two parties are the Democratic Party and the Republican Party

Merits The following are the merits of the two-party system

1 In a parliamentary government, the two-party system provides for stability in government During 1870-1934, England which had a two-party system had 18 ministries, and France which had a multiple party system had 88 ministries

2 A real representative government can be had only in a two-party system

3 The opposition party as found in Britain can effectively check the government, and can also be ready to form an alternative government

Defects The defects of the two-party system are the following

1 In a cabinet system having two parties, the ruling party commanding a vast majority of seats in the legislature may do whatever it likes, and there is always a possibility of developing cabinet dictatorship

2 Laws may be passed in the interests of the brute majority and not in the larger interests of the country

3 The system itself may become tyrannical Clinton Rossiter observes thus on the two-party system in the USA "The most momentous fact about the pattern of American politics is that we live under a persistant, obdurate, one might almost say tyrannical two-party system We have the Republicans and we have the Democrats and we have almost no one else, no other strictly political aggregate that amounts to a corporal's guard in the struggle for power "[1]

3 The Multiple-Party System

More than Two Parties A multiple-party system is one in which more than two parties exist France can be given as a good example of the multiple-party system, for the number of parties had ranged from 17 to 30

In India also, there are several parties The Congress, the Swatantra Party, the Jana Sangh, the Communist Party of India, the Communist Party (Marxist) and several other parties, some of which are of regional importance The Congress Party has been

1 Ibid p 3

able to command a majority in Parliament and in most of the State Legislative Assemblies In the three General Elections (1952, 1957 and 1962) the Indian National Congress emerged victorious with a comfortable majority at the Centre and in all the States except Kerala But in the Fourth General Election (1967), the situation changed when the Congress suffered great reverses i many constituencies and not less than 100 ministers lost their seats The Congress majority in Lok Sabha was slashed by about 80 seats and it could not speak in Parliament with the same hectoring tone as in the past In several States the Congress was defeated In Madras, Kerala, Orissa West Bengal and Haryana, other parties formed ministries In the Punjab and the Uttar Pradesh, the Congress could rule barely for a month and had to make way for the opposition In Rajasthan the Congress had a doubtful majority and owing to disturbed conditions Preside rule was imposed But later the Congress Leader Mohan Sukhadia formed the ministry

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Merits and Defects The merits of the multiple-party syst are the following

(1) The possibility of cabinet dictatorship is ruled out, an every party can aspire to rise to power at sometime or the other

(2) In a multiple-party system, there is greater individual freedom and all shades of opinion can express themselves through the various political parties

(3) Various interests in a state secure adequate representation

(4) The voter has a wider choice than in the two-party system

The defects of the multi-party system are the following

(1) There can be no political stability

(2) Conditions in the country can be chaotic with several parties and factions

(3) No ministry will be able to do any good work Coalition ministries will exist precariously for a short time

(4) The pernicious system of trading in votes will undermine all political morality

Among the three systems, on the comparison of their relative merits and demerits, the two-party system can be regarded as the best

G Pressure Groups and Lobbies

Besides political parties there are pressure groups and lobbies in the various countries like England and the USA Their influence is particularly considerable in the USA

Meaning Pressure groups are private associations formed to influence public policy The aim of these groups is to uphold their interests by trying to influence government They do not intend to capture power or nominate candidates for election A pressure group 'usually declares itself to be a non-partisan organisation of persons united for the achievement of a certain principles and for the protection or promotion of material activities and of ideal causes deemed vital to the group's existence or survival "[1]

Difference between Pressure Groups and Lobbies Pressure groups are not the same as lobbies " Some distinction must be made between pressure groups and lobbies The former are interested in influencing both the legislature and public opinion The latter concentrate chiefly on the legislature while it is in session and are concerned with the passage or defeat of particular bills Thus the activities of pressure groups are broader than those of lobbies Most pressure groups also maintain lobbies, in addition to their attempts to influence legislation indirectly through affecting public opinion "[2]

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1 A Leiserson *Parties and Politics* (1958) p 234

2 J S Roucek and Others *Introduction to Political Science* (1954) p 447

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Pressure groups and lobbies discharge the following functions

1 **Publicity and Propaganda** Pressure groups and lobbies carry on strong and widespread publicity and propaganda in favour of certain causes and try to pressurise government for passing the necessary legislation

2 **Electioneering** They also conduct electioneering in favour of candidates, who they think, will uphold their causes

3 **Contacts** They establish necessary contacts with government authorities to achieve their objectives

4 **Work with Political Parties** Pressure groups and lobbies may also function within political parties

5 **Movements** If necessary, they may arrange for violent movements and strikes

6 **Influencing Public Opinion** Pressure groups and lobbies play an important part in creating and moulding public opinion Finer observes "They have acquired the name the Third House, the Assistant Government They have emerged into public and recognised position, because of the appreciation that parties in a country so vast as the United States cannot possibly and certainly do not (for reasons we have advanced) do the necessary work of representation of so many different purposes, and Congress itself has admitted the groups into its counsels through the doors of its committees where the effective work of legislation is done' These try to influence government in an informal way Millions of people are able to express themselves through pressure groups

7 **Upholding Variety of Causes** Pressure groups and lobbies represent and uphold various types of interests and causes J A Corry says "The groups that exert pressure in Washington are organised to promote a bewildering variety of purposes It would be difficult to classify them in a limited number of categories Without attempting a classification it may be said that the more powerful groups are trade associations (representing industrial and commercial interests), labour unions, farm organisations, professional associations, national women's organisations, various reform leagues, and a number of patriotic ethnic and religious *organisations*"[1] They plan their work thoroughly with all the resources at their disposal They spend large sums of money to manipulate mass attitudes

1 *Democratic Government and Politics* (1958), p 308

8 Public Relations Work Pressure groups and lobbies do much public relations work V O Key points out "Public relations efforts are essentially of two sorts An intensive short-term campaign may be designed to whip up public opposition to or support of a particular legislative measure To be differentiated from the whirlwind campaign is long-term effort to manage basic public attitudes toward support of a broad point of view or to create a favourable sentiment toward a particular corporation or industry''[1] Pressure groups follow different methods in their public relations work J A Corry says "The oldest form of direct pressure on legislators is the social lobby, which still persists although its results are generally thought to be meagre Members of the Congress are often wined and dined by legislative agents just for the sake of getting acquainted New members particularly are singled out and the lobbies do much to make them feel at home in Washington But members of the Congress cannot be bought for the price of a meal and there is no attempt to do so The purpo e is to establish friendly relations "[2]

Importance As regards their importancel, Key says "Obviously organized groups, for good or ill perform a function of representation in the political system The characterization of the lobby as *the third house* puts the point vividly if somewhat exuberantly Organized groups supplement the system of geographical representation "[3]

Drawbacks The influence of pressure groups and lobbies is not all for the good Unfortunately some of the pressure groups overreach themselves and indulge in unwholesome and immoral activities, which are likely to discredit these institutions Key points out "The use of the term *pressure* conjures up a picture of a wicked lobbyist attempting to coerce a righteous legislator to deviate from his disposition to follow the public interest By and large the relations between organized interests and legislators must be described in other terms although on occasions the crudest pressures are invoked for indefensible purposes "[4]

The unwholesome methods are

(1) to bribe legislators

(2) 'to furnish sumptuous free meals without number, and great quantities of assorted intoxicating liquors to legislators" and

1 *Politics Parties and Pressure Groups* (1958) p 145
2 *Democratic Government and Politics* (1958) p 313
3 *Politics Parties and Pressure Groups* (1958) p 158-59
4 Ibid p 147

(3) "procuring for their entertainment lascivious women who were on the pay roll of the lubbyist"[1]

The unwholesome and vulgar tactics of pressure groups forced the government to pass the Federal Regulation of Lobbying Act of 1946 This Act required individuals and groups

(1) to send quarterly reports of their activities,

(2) to mention the particular bills in connection with which they worked,

(3) to give a list of publications,

(4) to give names of persons who contributed 500 dollars or more, and

(5) to present the expenditure including in it the names of persons who received 10 dollars or more

Pressure Groups in India In India, also there are pressure groups and lobbies, but these pale into insignificance when compared to their American counterparts Some of the groups and lobbies are sympathetic towards certain parties and interests The Forum of Free Enterprise and the American Lobby in India which are strongly in favour of private enterprise go hand in hand with the Swatantra Party The China Lobby is associated with the Communist Party (Marxist) The Anti-cow Slaughter Lobby is connected with the Bharatiya Jana Sangh

H Evaluation of the Party System

Let us briefly refer to the merits and defects of the party system

Merits The following are the merits of the party system

1 *Indispensable* The party system is indispensable in modern democracy All writers agree with this except idealists, who ignore realities Modern democracy will be unworkable without political parties In fact, the way in which parties are organized and their methods of working determine the success or failure of a democratic form of government Without parties, it will be impossible to work the parliamentary or the cabinet system, in which one party will form government and the others will be in the opposition Even in the presidential system, political parties are essential

2 *Help Individuals* Political parties with their excellent organisations help individuals to play an effective role in the political field They enable people with particular attitude and opinion to join them and work in their own interests and in those of the

1 Ibid p 152

4 Bribery and Corruption Political parties are responsible fo widespread bribery and corruption All kinds of shady methods are used to fight elections and seize power, and similar methods are employed to retain power Clean methods of governing or opposing government are abandoned, and corrupt methods are used A party may make use of all the resources of the government to strengthen itself and favour a few individuals at the co t of the country When the ruling party plays a foul game, the oppo sition, which does not wish to lag behind may follow equally bad and corrupt methods for overthrowing the government

5 Honest Opinion Impossible In some countries parties function in such a manner that no individual's honest opinion is valued Party members are muzzled and prevented from expressing them selves freely as they like They are told that they should always toe the party line within and outside the legislature Members are not allowed to give even good and constructive suggestions as they are likely to go against the selfish interests of the pa ty bosses Issues are not judged by their merits but only by party considerations In the legislature, members are forced to vote for the party and frequently the whip is used Though a particular bill introduced in the legislature is harmful to the country, party members are forced to vote for it Similarly, members of the opposition may try to run down a government bill however good it may be

6 Dictatorial Power If conditions are favourable in a state, a political party may be able to seize power and use it in a dictatorial manner Certain individuals in the party may act in a high handed manner as they are sure of the solid support of majority party in the legislature There are examples of ministe with the support of a strong political party wielding more pow than dictators

Conclusion

Parties Useful and Partyless Democracy Impossible In spite of these drawbacks, political parties have a purposeful role to play Their merits far outweigh their demerits, and it is realised everywhere that in the light of realitie political parties are quite essential A question [illegible] whether a partyless democracy is possi [illegible] political parties have come to stay, [illegible] we cannot think in terms of a party [illegible] ha them useful, and no [illegible]

who advocate the elimination of political parties and cry for the establishment of partyless democracy totally ignore the realities in every state M Venkatarangaiya says "There are many misconceptions regarding the role of political parties in a democracy, and this is the reason why we have among us today several advocates of partyless democracy Most of them think of politics in terms of small village republics They believe that what is possible in the government of a village is equally possible in the government of the country as a whole The difference in size and scale does not make any appeal to them It is here that their mistake lies "[1]

I Political Parties in Britain

Cavaliers and Roundheads The credit of establishing the two-party system goes to England In the seventeenth century, in the struggle between Charles I and Parliament, the Cavaliers supported the King and Roundheads supported Parliament

Whigs and Tories In course of time this party arrangement gave rise to the formation of the two parties known as the Tories and Whigs

Conservatives and Liberals After the First Reform Act was passed in 1832, the two parties assumed new names and styled themselves as Conservatives and Liberals These two parties were recognised by Disraeli and Gladstone after the Second Reform Act was passed in 1867

The Conservatives were in favour of the House of Lords, the prerogatives of the King and privileges of the clergy and landlords It secured the support of the rich

The Liberals stood for *laissez faire* and secured the support of the middle class and industrialists

The Irish Nationalists in Parliament lead by Parnell formed a party of their own and sometimes supported the Conservatives and sometimes the liberals This party could not become so strong as to form a government, and so for all practical purposes England came to have only two parties

Emergence of Labour Party After World War I (1914–18) the Labour Party became important, and in 1924 it formed a government with Ramsay Mac Donald as the Prime Minister but this ministry had to resign after nine months, as it could not command the requisite majority Then the Conservative Party

1 *The Illustrated Weekly of India* (May 13 1962) p 15

came to power and remained in saddle till 1929 In the elections of 1929, again the Labour Party did well, and it formed its second government, but in 1931 it had to resign, as it was weaker than the Conservative and the Liberal Parties put together In 1931, a split in the Labour Party weakened it.

General Elections of 1931 1935 1940, 1945 and 1951 In the General Election of 1931, the Conservatives under the leadership of Baldwin secured majority, but Baldwin allowed Ramsay Mac Donald to be the Prime Minister

After the General Election of 1935, the Conservatives under Baldwin resigned to make way for Neville Chamberlain, who became the Prime Minister in 1937

During World War II (1939–45), the political parties agreed to show a spirit of co-operation In 1945 the Labour Party won the General Election and was able to form a government with C. R Attlee as the Prime Minister

In the General Election of 1951, the Conservatives were successful, and they were able to form a government.

It must be noted here that the Liberal Party has lost its hold on the people Though there are three parties, for all practical purposes there are only two the Conservative and the Labour

J Political Parties in the USA

Parties Extra-constitutional in Growth The makers of the constitution of the USA never anticipated the formation of political parties They were against the British party system, and did not like to have political parties as in Br[illegible] provision was made in the constitution for the for[illegible] polit[illegible] arties, as they were regarded as evils Geo[illegible] on wa[illegible] party spirit But the realities in pol[illegible] the [illegible] the two parties known as Democr[illegible] the party system [illegible] constitu[illegible] this that made th[illegible] of the USA wit[illegible] "No America wi[illegible] no politics witho[illegible] moderation So ru[illegible] exposition of the p[illegible] of opinion [illegible] the formation of

1 *Parties and politics in*

Presidential Executive and Written and Rigid Constitution Unlike England, the USA has a non-responsible or presidential executive The federal constitution is written and rigid According to the constitution the legislature does not control the executive, which is not drawn from the legislature The principle of separation of powers is followed, and there is a possibility of antagonism between the executive and the legislature But the formation of political parties has brought about a connection between the executive and legislature and rendered the harmonious working of government possible Even in the time of George Washington, one could see party differences, though these did not come to the forefront

Federalists and Antifederalists In the USA the Federalists, who desired to have a strong centre and give wide powers to the federal government were led by Alexander Hamilton On the opposite side, the Anti-Federalists (renamed Republicans in 1800) who desired the powers of the federal government to be limited were led by Thomas Jefferson

Federalists in Power till 1800 The Federalists (the predece ssors of the Republicans) formed a vital factor in American politics till 1800 Here is must be noted that Washington, who did not favour party politics gave seats to the rivals Hamilton, the leader of the Federalists and Jefferson, the leader of the Democrats in his cabinet during his Presidency (1789-96)

The two parties that exist in the USA today are the Demo cratic and the Republican

Fortunes of the Democratic Party

The Democratic Party took birth in the time of the President ship of George Washington owing to the initiative taken by the great American leader Thomas Jefferson The Democratic Party was in power for a longer time than the Republican, it changed its name thrice In the time of George Washington it was called Anti-Federalist, in 1800 it was renamed Republican (as the Jeffersonians called them selves Republicans indicating that they were against kings) in 1824 Democratic Republican, and in 1828 Democratic

In 1800 its candidate Jefferson became President and for 36 years during 1800-40 (with a gap of four years 1826-30), it remained in power It all the time championed the cause of States, and upheld the interests of farmers and planters against those of the powerful industrialists It also expressed itself against ship subsidies and protective tariffs Similarly, it was against the imperialist policy of

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1 *Parties and politics in America* (1963) p 1

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The two parties that exist in the USA today are the Democratic and the Republican

Fortunes of the Democratic Party

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the government and the principle of increasing the powers of the federal government

The Democratic Party was against the abolition of slavery, and with the rise of Abraham Lincoln, the Republican candidate in 1860, it got a set-back

After the Civil War (1861-65) the Democratic Party was pushed into the backwaters The party was in the doldrums till 1884 when its candidate Cleveland who was elected President, was able to revive the lost vigour of the Democratic Party

The party was able to be in saddle again during the eight years of Wilson's regime 1913-21

Then for the next twelve years it was in the opposition

In 1932, its candidate F D Roosevelt was elected President He was able to get re-elected repeatedly to become President four times, and only death was able to end his regime in 1945 Then Truman became President

The Democratic Party continued to remain in power from 1932 to 1952

In 1952 the Republican Party candidate Eisenhower became President

In 1960 the Democrats came to power with the election of John F Kennedy who defeated Richard M Nixon Kennedy was assassinated in 1963 and on November 22 1963 Vice President Lyndon B Johnson was aworn in as the 36th President

In November 1964 Johnson defeated the Republican candidate Barry Goldwater and became President

Fortunes of the Republicans

The Republican Party, which is also known as the Grand Old Party (G O P) was established as an anti-slavery party before the Civil War in the fifties of the nineteenth century The Federalist and the Whig Parties were the forerunners of the Republican party In the time of Jackson's rule the Federalists formed the opposition with the new name National Republicans In 1856 as an opposition to the ruling Democratic Party, the National Republican Party replaced the Whig Party

The election of Abraham Lincoln, the party candidate in 1860 strengthened the hands of the Republican Party immensely, and it became one of two powerful parties of the USA Its victory in the Civil War (1861-65) further strengthened the party

The party produced outstanding leaders like Lincoln, Grant, McKinley, Theodore Roosevelt, Coolidge and Hoover, and in recent years Eisenhower

The party was out of power during 1932–52

In 1952 Dwight D Eisenhower captured the Presidentship defeat ing Adlai Stevenson Since 1952, the Republican Party was in power till the rise of Kennedy

In 1968, the Republican Party candidate Richard M Nixon won the presidential election, defeating the Democratic candidate Hubert Humphrey

Other Parties

Besides the two major parties in the USA there are minor parties like the Socialist Party, the Communist Party and the American Federation of Labour 'There may be several parties contesting election, but since 1924 the Republican and Democratic Parties between them have received at least 95% of all votes cast in every election since 1924 "[1]

Features of the US Party System The following are the features of the party system in the USA

1 **National Parties** Parties in the USA are national parties The Republicans and the Democrats have a following all over the USA Parties in the States lend great support to these parties

2 **Parties Loosely Organised** Parties are loosely organised unlike those in England They do not have clear-cut ideologies like the parties in Britain H R Penniman observes 'American parties are non-ideological Both parties are committed to the maintenance of the democratic system, but beyond this commitment the members of each party are divided on many of the crucial issues of the day "[2]

3 **Link between Parties and Big Business** Powerful party bosses are intimately connected with big business interests R G Gettell points out "One of the chief dangers in American politics is the close connection between the parties and business interests, resulting in the graft evil For this purpose boss rule in the party and the corporate form of business organisation offer convenient points of contact "[3]

1 H R. Penniman *The American Political Process* (1962) p 59
2 Ibid. p 60
3 *Political Science* (1956) p. 306

4 **Spoils System** The ugly party politics gave rise to the spoils system by which the members of the civil service were thrown to the tender mercies of the party in power The Spoils System in the USA worked havoc and legislation had to be passed against it The murder of President Garfield in 1881 by job-seeker provoked the Congress to pass the Pendleton Act in 1883 for the establishment of a Civil Service Commission

5 **Pressure Groups and Lobbies** Pressure groups and lobbies representing various interests and championing a variety of causes play a conspicuous role in American politics

6 **Good for Opposition** Parties in the USA shine well when their role is to oppose Clinton Rossiter observes "American parties had perhaps more success in opposing than in governing which is a revealing commentary on the nature of our political system In fact it often seems that American politicians are happier out of the power than in it "[1]

7 **Decentralisation and Indiscipline** American parties are decentralised and lack discipline[2] In countries like Britain, there is strict party discipline Members of parties are expected to follow the party leadership and follow the party principles strictly Those who defy party rules will be either expelled from the party or stern disciplinary action will be taken against them In India, several members of the Congress Party have been expelled for having defied party discipline In 1969 the Congress President Mr S Nijalingappa expelled Prime Minister Smt Indira Gandhi for having worked against Mr Sanjiva Reddy, the Congress candidate for the Presidential election and for having supported Mr V V Giri, the independent candidate Subsequently the Congress split into two factions There is nothing like that in the American parties, and there is no way of expelling a member for going against the current party programme or for not following the leaders

8 **Not Much Difference between Parties** In countries like India, there is wide difference between two parties For instance, there is remarkable difference between the Indian National Congress and the Bharatiya Jana Sangh, and between the Congress Party and the Swatantra Party, the same is the case between the Congress and the Communist Parties On the other hand, in the

1 *Parties and Politics in America* (1963) p 47
2. See H R Penniman *The American Political Process* (1962) pp 59-61

USA, there is no glaring difference between the Republicans and the Democrats (the major parties) In India, the Congress stands for democratic socialism, and wants changes in an evolutionary way The Communists want revolutionary changes, but in the USA neither the Republican Party nor the Democratic Party demands sweeping changes At the same time, neither of these parties is conservative or reactionary John Fischer says "The contemporary differences between parties can be understood by thinking each of them as a loose coalition The Republican Party can be described (with some oversimplification) as an alliance of business men, mid-western and north-eastern farmers, and many residents of the smaller towns The Democratic Party, on the other hand, normally has the support of most labour unions, a substantial majority of Negroes and other minority ethnic groups Though it draws the votes of certain southern and western farm organizations, its core of strength rests on the big cities In general the Democrats are regarded as more liberal (in the American sense of that term) and the Republicans as more conservative"[1] A study of the American political parties leaves non-Americans puzzled, as they cannot distinguish between the Republicans and the Democrats D C Doyle observes "At present, the two parties are alike in so many ways that they are sometimes called Tweedledum and Tweedledee Every two years they agree to have a battle in which both sides are well enough protected to avoid serious damage to the loser"[2]

K Political Parties in France

Multiple-Party System In France, there is the multiple-party system, and hence a stable government is not possible The only possibility for France is to have coalition ministries Unlike the parties in Britain and the USA, parties in France do not have a countrywide organisation and local committees are not formed People in France are not definitely committed to parties like people in Britain and the USA

L Political Parties in India

In India, there are several parties We shall divide these into two categories (i) All India Parties, and (ii) Regional or less Important Parties

1 *Span* (Jan 1964) p 18

2. *The United States Political System and How It Works* (1963) p 20.

I All India Parties

A Parliamentary Democracy with Several Parties India is a parliamentary democracy like Britain, but her constitution is written. The Constitution (1950) does not mention political parties but the political parties have made the constitution workable. While Britain has the two party system, India has the multiple party system like France but in India one party is head and shoulders over the other parties. This explains why India, unlike France could have a stable government at the centre since 1947.

Till the Fourth General Election (February, 1967) the Congress had an overwhelming majority at the Centre and in all the States except Kerala. The situation changed in 1967 with the defeat of the Congress in several States and with a considerably reduced majority at the Centre.

A Confused Picture The various political parties in India present a confused picture, and this is a contrast to the picture in Britain. In the Congress, the greatest party itself there are factions, and particularly after Nehru's death the factional spirit spread like cancer terribly weakening the party on the eve of the Fourth General Election (1967). Within the Congress, there are rightists, leftists, middle of the road persons, and all types of members not very much concerned in obeying the rules of party discipline.

With the break up of the Congress into two factions in 1969, the Congress government headed by Prime Minister Mrs Indira Gandhi at the Centre had a setback, and it had to depend on the Communist, DMK, Akali Muslim League, PSP, SSP and Independent votes for survival in the Lok Sabha.

The other parties are also not in very good shape. Even in the Swatantra Party, all do not agree with the views of Rajaji.

The Communists, generally well known for their party discipline are also torn by factionalism, and there are rightists leftists and centrists among them.

The Samyukta Socialist Party also is in complete disarray, and the people are confused when its leaders speak in different ways and assume different postures. Critics of India in the West forecast the fall of Indian democracy in 1967, the year of the Fourth General Election. The Congress, contrary to its expectations, received rude shocks, when more than a hundred Congress

ministers were defeated in many constituencies It is encouraging to note the opposition parties and groups striking alliances either to oppose the Congress or to form governments in States driving the Congress to the opposition benches But at the same time, it is depressing to note that political parties have been thoroughly exploiting linguistic, caste creed and regional differences among people for immediate political gains Similarly, opportunists are crossing the floor of the legislature for personal gain as in the Punjab, Uttar Pradesh, Kerala, Gujarat, Mysore and other states not for the sake of sound political principles, but for the purpose of gaining seats of power

The following are the important political parties in India

1 The Indian National Congress

The Congress movement can be studied in 3 phases (1) 1885–1905 (2) 1906–1919, and (3) 1920–1947

Birth and Domination of Moderates The Indian National Congress was established in 1885 by A O Hume, a British civilian in the days of Lord Dufferin The organisation had English educated Indians as its members Most of the early "Patriarchs" of the Congress were moderates, who had full faith in the British sense of justice

During the first phase of the Congress movement (1885–1905), moderates dominated W C Bonnerjee, Dadabhai Naoroji, Pherozeshah Mehta, Surendranath Bannerjee, Gopal Krishna Gokhale and others were moderates, who were sure that sooner or later Britain would fully justify the faith which Indians had in her

Emergence of Extremists The next phase of the Congress movement was during 1906–1919 In the second phase, the extremists emerged under the leadership of B G Tilak, who claimed *swaraj*, not as alms but as the birth right of every Indian Lokamanya Tilak, Lala Lajpat Rai, Bipin Chandra Pal, Dr Mrs Annie Besant and other leaders put new vigour into the Congress movement Particularly, Tilak prepared the ground for M K Gandhi

The Gandhi Era The third phase of the movement began in 1920 and ended on the 15th of August, 1947 This period has been called the Gandhi Era, as M K Gandhi, whom Indians call *Mahatma*, Prophet of Sabarmati and Father of the Nation dominated the political scene Under his charismatic leadership, the

country was prepared to make any sacrifice for winning swara
Pandit Motilal Nehru, Pandit Jawaharlal Nehru, C R Das
Vitthalbhai Patel, Sardar Vallabhbhai Patel, C Rajagopalachari
and others were the leading lights in the Congress movement

In 1947, the British granted full independence to India after partitioning the sub-continent into Bharat and Pakistan On August 15, 1947, India celebrated her first Independence Day

Selfless Sacrifice, High Ideals and Soaring Patriotism Strictly speaking, the Congrees was not a political party, but a powerful national movement, which considered no sacrifice great for achieving complete independence Its leaders were tr great men, who thought in terms of service and sacrifice to t motherland Matched with their spirit of self-abnegation was tl tremendous courage to fight against the mightiest empire i history Gandhi, Nehru, Patel and many others were the great and noble souls, who won *poorna swaraj* for India

Proud Achievements of the Congress in Power In 1946 itself (even before India won independence) Pandit Jawaharlal Nehru was asked to form an interim government at the Centre People in general welcomed this with great enthusiasm, as the Congress Ministers in the period of Provincial Autonomy (1937-39) had served the country well, and people thought that if the Congress could produce such selfless men, India could become a happy paradise

The British had virtually transferred power to the Congress in 1946 and on the 15th of August, 1947 Pandit Nehru bec the Prime Minister of an independent nation

The Congress can be legitimately proud of its great achie ments, which are as follows

(1) It played an important part in constitution-making

(2) It drew and implemented comprehensive plans for th eradication of poverty, unemployment zamindari, social injustice, untouchability and exploitation

(3) It gave an important place to scientific and technological research

(4) By and large, it governed according to the provisions of the Constitution even during national emergency in the wake of Chinese aggression in 1962

(5) It put forth special efforts to have democracy at the grassroot level through the Panchayati Raj

(6) It did much for ameliorating the condition of the back ward sections of society

(7) It upheld and worked for secular principles

(8) It worked for the cause of world peace upholding the principles of the UN Charter

Power, Pelf and Perquisites Since 1947, till his death on May 27, 1964, Pandit Nehru was Prime Minister without any interruption Nehru was the most powerful leader of the nation and the topmost party boss in the Congress Though the Prime Minister of a democratic state, Nehru could wield dictatorial power owing to his immense popularity as the darling of the millions, his charismatic leadership casting a spell on the country and the full faith and loyalty he could command in the Congress and outside Nehru had sacrificed much at a time when power was not in sight, and thousands of Congressmen had suffered patiently for the sake of freedom

Elections of 1952, 1957 and 1962 A great change came over the Congress since it began commanding vast power and patronage It won resounding victories in the three General Elections (1952, 1957 and 1962) No political party in India was anywhere near the Congress to challenge it seriously Power was taken for granted by the Congress Congress men slowly but surely de eloped a terrific lust for power, pelf and perquisites To them their petty selves and the Congress were everything, but the country did not count

The Congress, it cannot be denied, did bring about great improvements in the country under the leadership of Pandit Nehru, who gave the principle of non-alignment and dynamic neutrality for the field of foreign affairs and the principle of a socialistic pattern of society for the field of domestic affairs For some time at lea t, the people were fully satisfied with Nehru's leadership, and with the implementation of the three Five Year Plans, signs were not wanting to show that modern India was being built up, and there was progress in all fields But gradually the people were disillusioned with Congress rule and with the unrealistic doctrines and policies of the Congress

People thought that, as Gandhiji had advised, the Congress ought to have been wound up immediately after winning independence

Causes of Setback for the Congress The following causes weakened the Congress

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5 **High Prices** The Congress Government drew up grandiose, but unrealistic plans Production schedules became meaningless, as various targets were far to be reached By the time the Third Five Year Plan was completed, the country felt the full impact of deficit financing and the common man was hard hit with scarcity of e sential goods and high prices

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In West Bengal, several Congressmen left the party and formed the Bangla Congress The Bangla Congress leader Ajoy Kumar Mukherji was able to form a non-Congress Coalition Ministry in West Bengal in March 1967 [1]

Dissident Congressmen from eight States formed the Jana Congress

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2 Failure of Foreign Policy The foreign policy of the Congress Government failed miserably As India under Prime Minister Nehru's leadership went on pontificating on great moral principles in the international field and criticised "aligned" states, she antagonised and annoyed several nations including the friendly ones That her policy of rigid non-alignment and "dynamic neutrality" was a failure was evident when she was completely humiliated by the Chinese invaders in October 1962 So also, during the Pakistani aggression in August-September 1965, Pakistan had many sympathisers in the world but India the victim of aggression was almost isolated Some nations derived vicarious pleasure in seeing India's plight

While India under Congress rule seized every opportunity to advise other countries, she was totally incompetent to repu[lse] the Chinese invaders This led to a loss of 14,500 square mi[les] of Indian territory and this is still under Chinese occupation Pakistan attacked Kashmir in 1947 and again in 1965, and in a[ll] seized 32 500 square miles of Indian territory, with all this India follows a policy of cowardly and meaningless appeasement

3 No Difference between Party and Congress Gradually Congressmen forgot the difference between their party and the government, and in the name of a socialistic pattern of society, they developed statism and totalitarian trends The Congress Government managed to amend the Constitution several times to suit the party needs and to increase its executive power and to neutralise verdicts of the judiciary

4 Bribery and Corruption Corruption increased rapidly seats in government were linked with power rather than service The Congress raised huge funds from various sources put itself under the obligation of individuals or concerns w[ith] doubtful reputation Circumstances forced it to give shelter to an[ti-] social elements taxdodgers and blackmarketeers Some Ministers the Centre and in the Punjab, Orissa Bihar, Rajasthan and oth[er] States lost no chance to build huge private fortunes at the cos[t]

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stalwarts like Kumaraswamy Kamaraj, S K Patil, Atulya Ghosh, C Subramanium P C Sen, Biju Patnaik and others

In the Lok Sabha, the Congress could win in the Fourth General Election only 281 seats (out of 521) as compared with 358 (out of 494) seats in the Third General Election (1962)

The Congress could form government at the Centre and in States like Andhra, Assam, Gujarat, Kashmir, Madhya Pradesh and Maharashtra, where it had won absolute majority

In Bihar Kerala, Madras (now Tamil Nadu) Orissa, West Bengal, Haryana and Punjab, parties other than the Congress came to power

In Rajasthan President's rule was imposed when Mr Mohanlal Sukhadia s (Congress) efforts to form Ministry were opposed and riots broke out But finally Mr Sukhadia could form a Ministry

In Uttar Pradesh, immediately after the Fourth General Election (February 1967), Mr C B Gupta formed the Congress Ministry, which lasted only for 19 days Mr Charan Singh, the dissident Congress leader crossed the floor of the house and brought about a peaceful, bloodless revolution when he headed the new Samyukta Vidhayak Dal Ministry Early in 1970, the efforts of the Ruling Congress Party (siding with Mrs Indira Gandhi) to topple the Gupta Ministry fructified and Mr Gupta had to resign, leaving the field of ministry-formation to Mr Charan Singh, the leader of the Bharatiya Kranti Dal

The fate of the Congress was the same in Punjab also

Thus the Congress monopoly to rule the country as it liked totally disregarding the wishes of the people and the opposition parties was broken in a peaceful way

Basic Principles of the Congress The Congress stands for the following basic principles

(1) Democratic Socialism and a Socialistic Pattern of Society,
(2) Planned Economy
(3) Welfare State
(4) Secularism
(5) Non-alignment and dynamic neutrality in foreign policy,
(6) International peace and good will, full support to the UNO,
(7) *Pancha Sheela* and peaceful coexistence

Performance in Elections

The Congress contested 479 Lok Sabha seats in the First General Election (1952) and won 364 in a house of 489

In the Second General Election (1957), the Congress contested 490 Lok Sabha seats and won 371 in a house of 494

In the Third General Election (1962), it contested 488 Lok Sabha seats and won 358 in a house of 494

In the Fourth General Election (1967), as stated above, the Congress contested 505 Lok Sabha seats and won only 281 The drastic *reduction in the majority in the Lok Sabha reflected* the loss of its popularity and prestige

No Alternative to Congress Even the worst critic of the Congress has to admit that the Congress gave stability to the country with the result India did far better than several other countries, which won independence about the same time No other party could offer better government than the Congress or show its capacity to fill in the vacuum, if the Congress would be over thrown The precarious existence of coalition governments in Kerala, West Bengal and other states, proves that a great party which can replace the Congress effectively and meaningfully is yet to be born

Great Split in the Congress in 1969

The Congress was a huge monolith, but it was destined to *split as various shades of opinion developed in it*, and members were not quite sure of the principles they were espousing It gave shelter to communist-cardholders, crypto-communists, democratic socialists, rightists of all types and leftists of different hues Indiscipline went on growing

At the Bangalore Session of the Congress Working Committee in July 1969, there could be no unanimity, and by majority vote Mr N Sanjiva Reddy was nominated to contest the Presidential election (*The Presidential election had to be held*, as Dr Zakir Husain, the President had died in harness on May 3, 1969 For some time, the Vice President, Mr V V Giri acted as President) Besides, there was an open *ideological rift on economic issues*, particularly the question of nationalising banks

Prime Minister Mrs Indira Gandhi did not favour the nomination of Mr Sanjiva Reddy, as she feared, that if elected President, *he might use his discretionary powers to her detriment*, and she suspected that her critics in the Congress, mainly the Congress President, Mr S Nijalingappa, Mr Morarji Desai, Mr S K Patil, Mr K Kamaraj, and Mr Atulya Ghosh (together nicknamed the

"Syndicate") were conspiring to overthrow her She liked to act swiftly, before it was too late

Immediately after the Bangalore Session, Mrs Gandhi stripped Mr Morarji Desai, the Deputy Prime Minister and Finance Minister of his Finance Portfolio on the ground that he would not be enthusiastic in implementing the Ten-Point Programme approved at the Bangalore Session (The Programme had been reluctantly approved by the 'Syndicate') The Deputy Prime Minister sharply reacted by submitting his resignation the same day on July 16 1969, as the sudden removal of the Finance Portfolio was a bitter bill he could not swallow On July 19 1969 the Acting President Mr V V Giri promulgated an Ordinance nationalising 14 major Indian Commercial Banks The next day Mr Giri resigned to contest the Presidential election as an independent candidate

Mrs Gandhi originally favoured Mr Jagjivan Ram as a candidate for the Presidential election but she could not command adequate support for him and he had to be dropped She and others did not favour Mr V V Giri, as they complained he was too old

Mr V V Giri had decided to follow the principle "Have everything or nothing" in other words, he would not like to continue as Vice-President, and would accept nothing less than Presidentship Mr Giri resigned from his Acting Presidentship, and offered himself as an independent candidate

Mrs Gandhi, who was earlier against Mr Giri now found hope only in his election and she moved heaven and earth to secure as much support as possible for him Her stand was followed by the "Young Turks' in the Congress and by all those who were against the Syndicate' The supporters of Mrs Gandhi were nicknamed "Indicate" The 'Indicate" included Mr Y B Chavan, Mr Fakhruddin Ali Ahmed, Mr Dinesh Singh, Mr C Subramaniam and others

Mr Giri won the election though Mr Sanjiva Reddy too polled well

The Congress Working Committee under President Mr Siddavanahalli Nijalingappa removed Mrs Gandhi from the primary membership of the Congress on November 12, 1969, and directed the Congress Parliamentary Party to elect a new leader Mrs Gandhi convened a meeting of the "Indicate" members of the Working Committee, which strongly condemned the action of Mr Nijalingappa

Thus the monolith was broken into two pieces (1) The 'Syndicate", and (2) the "Indicate" The former also came to be

called Cong-O, and the latter Cong-I or the Ruling Congress The "Syndicate" convened the Plenary *Session of the Congress in* December 1969 at "Gandhinagar' in Ahmedabad, and in January 1970, the "Indicate" organised its eparate Plenary Session at "Azadnagar" in Bombay

Both the factions of the Congress hurled strong words at each other, and no limits were marked for mutual recrimination Mr Nijalingappa had said "A vote for Giri is a vote for communism a vote for Reddy is a vote for democracy ' People in India stood aghast at the ugly political drama that was being enacted in the name of Congress principles Mrs Gandhi had a clear edge over her "Syndicate" rivals, as she commanded "high voltage" power and vast patronage As Mr Giri won the election on August 20, 1969, Mrs Gandhi rode the crest of a popular wave and the entire political world stood tongue-tied at the manner in which *the "Elders" in the Congress,* who were *responsible* for "making" Mrs Gandhi Prime Minister in the past were humiliated by her

Mrs Gandhi won no doubt, but after breaking the Congress, which had brought freedom and had given stable rule to India for two decades She wronged the Congress, and broke its discipline by working in favour of Mr Giri and by throwing all her weight *against the Congress candidate Mr Reddy,* whose candidature she had accepted at Bangalore and whom he was bound to support We may not agree with the economic principles and other views of the "Syndicate' but we have to approve of Mr Nijalingappa's step in expelling Mrs Gandhi

Removing the Finance Portfolio of Mr Morarji Desai in a cavalier fashion, canvassing for Mr Giri, favouring State Governments which had supported Mr Giri, singling out certain States for step-motherly treatment, and making efforts to "topple" Ministries in Uttar Pradesh (where the 'Indicate" succeeded), Gujarat and Mysore showed that the Prime Minister and her supporters left no stone unturned in humiliating and overthrowing their rivals

Not that the record of the "Syndicate" was clean and above board They too tried devious ways and mobilised all their resources to achieve their aims

The break up of the Congess was hailed by all the parties Some observers commented that the spilt would

mist of doubt about ideas and ideologies and facilitate polarisation. So far, this has not happened, because rivalries are based not on principles, but on power-politics and self-aggrandisement.

The "Indicate" blamed Mr Nijalingappa for hobnobbing with the Swatantra Party and the Jana Sangh but later Mr Jagjivan Ram, President of the Ruling Congress made overtures to the Swatantra Party in trying to 'topple' the Hitendra Desai Ministry in Gujarat. Similarly, the Prime Minister sought the help of the DMK, the Akali Dal, the BKD, the PSP, the SSP, and the Communist Parties for the survival of her government. Mrs Gandhi's action, which broke up the Congress converted the majority government into a minority government. Some critics said that her government was an undeclared coalition.

Both the factions of the Congress have to be blamed for violating healthy constitutional, legal, political and moral principles. True lovers of democracy feel badly let down, as their leaders wish to retain power even at the expense of principles. The manner in which Mr Nijalingappa suspended or expelled a large number of "Indicate" Congressmen, and the equally vindictive manner in which Mr C Subramaniam the Interim 'Indicate" President and Mr Jagjivan Ram, the "Indicate President expelled 'Syndicate" Congressmen appeared ugly and ridiculous.

In the Lok Sabha, Dr Ram Subhag Singh (who was asked by Mrs Gandhi to resign as Minister of Railways) walked over to the 'Syndicate" side and became the leader of the opposition. He and his supporters desired to 'topple" Mrs Gandhi's Ministry, as she had actually "toppled" or wished to "topple" Ministries in the States.

The two Congress factions are now fighting for the "Two Bullocks', the election symbol, which attracted the electorate during the four General Elections. (Criticism on the Indian Political Parties in General is given in Section M of this Chapter.)

2 The Swatantra Party

Opposition to Congress Economic Policies. The Swatantra Party established by Mr Chakravarti Rajagopalachari (Rajaji) in August 1959 is another all India Party. Mr M R Masani says: "The absence of an effective opposition to the Congress Party was felt increasingly over the years and by 1959 it was clear that the Congress Party's policies had set the country on a course, what all controls locked, bound straight for disaster and ruin.

It was to correct this situation that the Swatantra Party was formed in August 1959 and its *raison d'etre* was its fundamental difference with the Congress Party over economic policy"[1]

The Swatantra is a rightist party, and many of its members were once in the Congress Mr Rajagopalachari, who was one of the top-ranking leaders of the Congress Party is the founder and chief theoretician of the party The other leaders of the Swatantra Party are Dr K M Munshi, Mr V P Menon Sardar Bahadur Lal Singh, Mr Jinaraj Hedge, Mr N Dandekar, Mr M R Masani, Mr Piloo Mody, Mr Ramachandra Reddy and Prof N G Ranga

Rajaji does not miss an opportunity to criticise the Congress Raj as a permit-cum-licence raj which tries to control everything in the name of social welfare The Swatantra leaders see in Congress rule totalitarian trends, statism, unrealistic policies, extravagance and waste, and danger to individual freedom

Basic Principles of the Swatantra Party The following are the basic principles of the Swatantra Party

1 Individual Incentive and Increased Production The Swatantra Party gives a very important place to the individual, whose dignity it seeks to uphold The state should regulate economic and other matters, but it should not kill his incentive It believes that national wealth and production will increase only if individual incentive is encouraged and ensured Supply of goods and services should be increased, and the interests of the producer and the consumer should be safeguarded The state should not impose unnecessary curbs and restrictions on the people as producers and consumers There should be a proper balance in the growth of industry and agriculture

2 Against Statism *The party is dead against the type of statism and totalitarian tendencies, which have been on the increase in the implementation of the Congress Five Year Plans*

3 Non-interference of Land Ownership The party is against the land reforms policy of the Congress, which has interfered with the ownership of land Agriculture should be given top priority in planning

4 Containment of Chinese Communist Imperialism The Swatantra Party is against the communist principles of totalitari

1 *Why Swatantra?* (1967) p 1

anism, regimentation of life and imperialism, and it desires to check the growth of red Chinese imperialism It is against the development of leftist tendencies developed by the Congress, which have strengthened communists in India and abroad India should go to the rescue of communist victimised Asiatic countries like S Vietnam India should build up mutual security arrangements with the free countries of Asia against Chinese expansionism and seek a nuclear umbrella

5 **Restriction of Public Expenditure and Foreign Liabilities** The cost of administration should be redu ed and foreign liabilities should be slashed

6 **Clean Administration** The country should be made free from corruption and administration should be clean and efficient

Norman D Palmer says "The Swatantra Party is conser vative in its economic and social views, very anti-communist, and is opposed to many of the policies and to the socialist orientation of the Congress It emphasises the freedom of the individual, the importance of private enterprise, the ancient con cept of *dharma* and the principle of trusteeship, in the Gandhian sense In foreign affairs it favours cooperation with Pakistan in the defence of the subcontinent "[1]

The Swatantra Party offered strong opposition to the Congress in Gujarat, Rajasthan, Bihar and Orissa

Performance in Elections As stated earlier, the Swatantra Party was established in 1959, that is, two years after the Second General Election (1957)

In the Third General Election (1962), the Swatantra (including the Ganatantra Parishad) contested 182 Lok Sabha seats and won 22 in a house of 494

Since 1962 the Swatantra Party moved from strength to strength and did well in the Fourth General Election (1967)

In 1967, it contested 177 Lok Sabha seats and won 44

The Swatantra comes next to the Congress in strength in the Lok Sabha In Orissa R N Singh Deo of the Swatantra Party formed the Swatantra-Jana Congress Coalition Ministry early in 1967

Criticism The Swatantra Party has been criticised as a haven of capitalists, landlords erstwhile Princes and vested interests,

1 *Studies in Indian Democracy* (Ed) by Aiyar and Shrinivasan (1965) p 596

conservative in its approach and having no contact with the masses Most of the leaders are old and leadership of young men is not being cultivated in the party

3 The Communist Parties

Early Days In age the Communist Party comes next to the Congress It was born in India in 1924, that is, seven years after the Bolshevik Revolution (1917) within the Congress itself Satyabhakta, a Congress worker convened a conference in December 1925 at Kanpur to organise the Communist Party of India

Many communists worked through the Congress secretly The communists also formed trade unions and student organisations Like communists in other countries, Indian communists worked with fanatical zeal covertly and overtly

Under the British Government for some time the Communist Party was banned

Opportunism When World War II broke out in 1939, the communists revealed themselves in their true colours as the worst opportunists For some time, they regarded the War as a "War of imperialists" and were against helping the British war effort But when Soviet Russia entered the war, following Hitler's attack on her in 1941 the communists made a *volte face*, changed their tunes suddenly, and loudly proclaimed that it was a 'People's Anti-Fascist War" Communists, who originally stirred labour troubles and hindered production, now called upon workers to produce more in favour of a "People's War"

In 1942, when the Congress started the Quit India movement, the communists remained aloof and supported the British Government This and the general opportunist and violent tactics of the communists tarnished their reputation

This explains why the Communist Party fared miserably in the General Election of 1946 The CPI was provoked into violent activities, as the CPI General Secretary, P C. Joshi came under the influence and pressure of a militant group of communists led by B T Ranadive

In 1948, the Government lifted the ban on the CPI But it continued its anti-national and anti-Congress activities till 1950 It denounced Pandit Nehru as a representative of the bourgeoisie and an imperialist collaborator On the eve of independence, the party following the example of Maoist revolutionaries in China

indulged in extremely violent and anti-national activities in Telen gana, where near civil war conditions developed

In 1950, to the surprise of all, the opportunist communists decided to give up their violent activities and even fall in line with the Congress The Congress with its broad and loose principles provided a good shelter to crypo-communists and fellow travellers It was amusing to see communists speaking in terms of constitu tional means and parliamentary democracy

Principles The following are the basic principles of the Communist Party

1 **Upholding Cause of Workers** The CPI upholds Marxist principles like Class War and Dictatorship of the Proletariat and as a political party it stands for promoting the interests of the working class It believes in the alliance of workers and peasants

2 **People s Democracy** The party believes in the establish ment of "People's Democracy" as understood by the Russians and the Chinese

3 **Liquidation of Feudalism and Capitalism** It stands for the liquidation of feudalism and capitalism, which are exploiting workers

4 **Unity and Solidarity of India** The party stands for the unity and solidarity of India

5 **Pancha Sheela** In foreign policy, the party stands for the five principles of peaceful coexistence

6 **Socialism by Peaceful Means** At least theoretically, the CPI wants to promote socialism by peaceful means It aims theore tically at rising to power by constitutional methods and through the legislatures

Fortunes of the Party In the First General Election (1952), the CPI did well and secured the status of the main opposition group (not party which requires at least 50 seats in the Lok Sabha)

In the Second General Election (1957), it won the largest number of seats in the Kerala legislature, and also improved its strength in other State legislatures and Parliament

In Kerala the communists were in power from April, 1957 to July, 1959 in 1962 the party further consolidated its position

Split in the Party In 1964 there was a split in the Commu nist Party into the Right and the Left The ideological differences between Soviet Russia and Communist China had their echoes among the Indian communists also

A section of communists (Rightists) toed the Russian line and followed the principle of peaceful coexistence, "different roads to socialism" and so on S A Dange, P C Joshi, Mohan Kumaramangalam, Bhupesh Gupta and S G Sardesai belong to the right wing

Another section following Maoist China was against Russia's revisionism and assumed pro-Chinese and anti-national postures in India after the Chinese aggression (October 1962) These are regarded as Leftists P Sundarayya, E M S Namboodiripad, B T Ranadive, Basavapunniah, R Ramamurthy, Jyoti Basu P Das Gupta, A K Gopalan and Hari Krish Surajit are the left wing (Marxist) communists

Naxalites Communists in certain regions are bent on creating chaotic conditions in the country by armed violence The bloody movement, which began in Naxalbari is gradually spreading and Naxalites have their pockets in the various parts of the sub continent

Performance in Elections

In the First General Election (1952), the communists and their allies contested 63 Lok Sabha seats and won 26 in a house of 489

In the Second General Election (1957), the CPI contested 108 Lok Sabha seats and won 27 in a house of 494

In the Third General Election (1962), the CPI contested 137 Lok Sabha seats and won 29 in a house of 494

In the Fourth General Election (1967), CPI (R) contested 101 Lok Sabha seats and won 22, the CPI (M) contested 61 Lok sabha seats and won 19 seats The Fourth General Election revealed the great damage caused to the communists by their internal quarrels and factionalism But in Kerala E M S Namboodiripad (CPI-Marxist) formed the leftist 7 Party United Front Coalition Ministry after the Fourth General Election But in 1969, this Ministry had to resign, and another Ministry (this time CPI) was formed under the leadership of Achutha Menon

Marxists in West Bengal The Marxists in the United Front Ministry of West Bengal used their power to strengthen the Marxist movement The Communist (Marxist) leader, Mr Jyoti Basu (who was Deputy Chief Minister and Home Minister) let loose a reign of terror in which many political murders took place and law and order completely broke down The "helpless" Chief Minister Mr Ajoy Mukherji (Bangla Congress leader) undertook fast to f-

public attention on the attitude of Mr Basu, but the fast and other peaceful methods proved to be of little avail Ultimately in March 1970, the Chief Minister resigned and President's rule was introduced in the State

Criticism The Communists in India have undermined their discipline and solidarity by their bickerings and dissensions They have exposed themselves as opportunists, and their loyalty to foreign governments from whom they often take directives made them more unpopular They did not hesitate even to sympathise with the Chinese aggressors The country has to guard itself from the Moscow and Peking patriots

4 The Bharatiya Jana Sangh (BJS)

The Bharatiya Jan Sangh, that is, the Indian People's Party was established in 1951 by Dr Shyama Prasad Mukherjee, who had resigned from the Hindu Mahasabha after Mahatma Gandhi's assassination (January, 1948) Dr Mukherjee had resigned from the Nehru Cabinet in 1950 over the Nehru–Liaquat Pact The BJS secured the support of members in the Hindu Mahasabha and the Rashtriya Swayamsevak Sangh (RSS) Under the leadership of this great patriot, parliamentarian and orator, the BJS secured the status of an All India Party by virtue of its good performance in the First General Election (1952) The party suffered much owing to the death of Dr Mukherjee, but it continued its strength till the Second General Election (1957) The results of the Third General Election (1962) however revealed that the party had gone into the doldrums

The BJS gradually recovered and started working with vigour It fully exploited the mistakes committed by the Congress and fared exceedingly well in the Fourth General Election (1967) In February, 1967 the BJS emerged as the strongest party in Delhi, gaining control over the Metropolitan Council, it also annexed six of the seven Lok Sabha seats

In the Lok Sabha, it won 35 seats and came third in rank, that is, next to the Swatantra as an opposition group

Criticism The BJS has been regarded by its critics as a communal organisation and its sympathies towards the Hindu Maha sabha, the RSS and other militant organisations have made people suspect its strong pro–Hindu stand contrary to the principles of secularism enshrined in the Constitution Pandit Nehru and other

Congress leaders strongly criticised its communal leanings Nehru went to the extent of calling it an "illegitimate child of the RSS"

Principles The following are the principles of the BJS

1 Democracy Based on Bharatiya Sanskriti The party stands for democracy as a form of government and way of life, and wishes to uphold "political, economic and social democracy based on Bharatiya *Sanskriti* '

2 National Solidarity and Integration It emphasises the importance of national solidarity and integration It favours a unitary type of government with adequate political and economic decentralisation

3 Nationalisation of Basic and Defence Industries It upholds the principle of nationalisation of basic and defence industries

4 Enlightened Self-Interest in Foreign Policy In foreign policy, it is dead against the Congress, which it feels sacrificed the interests of the nation in the name of non-alignment and emphasises the need to develop enlightened self-interest Foreign policy should be based on reciprocity and mutual interest It advocates the complete integration of Kashmir with India, and the recovery of Indian territory, occupied by China and Pakistan Balraj Madhok points out "Foreign policy must help in the defence of the country against the neighbours if they happen to be hostile and aggressive as Communist China and Pakistan are towards India The search for friends by India has to be made with an eye on this basic reality "[1]

5 Miscellaneous It stands among other things for the following

(1) cow-protection
(2) use of Hindi as official language,
(3) efficient and clean administration,
(4) stabilisation of prices and
(5) abolition of food zones

Leaders The important leaders of the BJS are Balraj Madhok, A B Vajapayee, Deendayal Upadhyaya and Jagannath Rao Joshi

Performance in Elections In the first General Election (1952), the BJS contested 93 Lok Sabha seats and won only 3 in a house of 489

1 *Why Jan Sangh ?* (1967) pp 10-11

In the Second General Election (1957), it contested 130 Lok Sabha seats and won only 4 in a house of 494

In the Third General Election (1962), it contested 198 Lok Sabha seats and won 14 in a house of 494

In the fourth General Election (1967), it contested 242 Lok Sabha seats and won 35

In the Punjab Chief Minister Gurnam Singh headed the People's United Front–Jan Sangh–Akali Independents coalition early in 1967

5 **The Socialist Parties (SP, PSP and SSP)**

We shall now briefly deal with the Socialist Party (SP), the Praja Socialist Party (PSP) and the Samyukta Socialist Party (SSP)

(a) The Socialist Party (SP) The Socialist Party was born within the Indian National Congress in 1934 Jaya Prakash Narayan, Achyut Patwardhan, Acharya Narendra Deva, Yusuf Meherally, N G Goray, Ashoka Mehta and M R Masani and others organised this party The Socialists continued to remain in the Congress, but changes in the Congress constitution and strong opposition to them from the Congress rightist leaders like Sardar Vallabhbhai Patel compelled them to leave the Congress in 1948

The SP had succeeded in making a mark in India and in winning the sympathy of a large number of people owing to the selfless zeal and constructive work of men like Jaya Prakash Narayan

However, the SP could secure only 12 seats in the Lok Sabha and 126 seats in all State Assemblies, in the First General Election (1952) The relative success of the Communists and the resounding victory of the Congress made the SP think in terms of seeking alliance with other socialist groups

(b) The Praja Socialist Party (PSP) The SP, the Kisan Mazdoor Praja Party established by Acharya J B Kripalani in 1951, the Krishak Mazdoor Praja Party (KMP) formed in West Bengal the Praja Party of Andhra and other groups merged in August 1952 a little after the First General Election to form the Praja Socialist Party The members of the KMP left the party to join the various opposition groups soon after the First General Election (1952), and the party came to grief

The PSP could not progress smoothly, there were bickerings in the party and Dr Ram Manohar Lohia left the party in 1955 to organise or rather revive the Socialist Party

In the Second General Election (1957), the PSP annexed only 19 seats in the Lok Sabha and only 200 seats in all the State

Legislative Assemblies thus showing that it could not command the expected following in the country

Repeated efforts to bring the SP and PSP together failed in 1957 and 1962

In the Third General Election (1962), the PSP could secure only 12 seats in the Lok Sabha and 149 seats in all the State Legislative Assemblies The SP fared worse annexing only 6 Lok Sabha seats and only 59 State Legislative Assembly seats In 1962 the party was weakened by factionalism and quarrels and by the expulsion of Asoka Mehta

Principles of the PSP The principles of the PSP are the following

(1) structural changes in India's social and economic organisation,

(2) agrarian reconstruction

(3) nationalisation of basic industries and

(4) participation of workers in the control of industry

Leaders Prem Bhasin, H V Kamath, N G Goray, S M Joshi, Nath Pai and S A Dwivedi are the leaders of the PSP

(c) The Samyukta Socialist Party (SSP) In 1964 the PSP disintegrated, and one group merged with the SP to form the Samyukta Socialist Party (The other group joined the Congress)

The future of this party could not be rosy, as important personalities within the SSP holding different views were openly criticising one another and indulging in mutual recrimination The utter lack of unity and discipline in the SSP came to the forefront at its Foundation Conference on January 31, 1965 when members of the PSP and SP wings in it actually came to blows

Revival of PSP At the Foundation Conference, the PSP members walked out and declared that the merger of the PSP with the SSP was revoked and the PSP was to be revived Thus the PSP and the SSP are separate groups existing side by side

In the Lok Sabha, comparatively speaking, the SSP is stronger than the PSP

In May, 1967 a move was made to merge the SSP with the PSP

In the Fourth General Election (1967), the PSP contested 107 Lok Sabha seats and won only 13 seats, the SSP contested 123 seats and won 23 seats

Ram Manohar Lohia (founder leader), Bhola Prasad Singh, Karpuri Thakur, S M Joshi, Madhu Limaye, Raj Narain, Shanti Aith, George Fernandes, Prabhu Narain Singh, Ram Swarup Verma and Ram Sewak Yadav are important members of the SSP

II Less Important and Regional Political Parties

1 The Dravida Kazhagam (DK) and the Dravida Munnetra Kazhagam (DMK)

The Dravida Kazhagam (DK) E V Ramaswami Naicker known as Periyar (who was in the Congress till 1922) established the Dravida Kazhagam (Dravida Federation), whose activities were directed against the caste hierarchy and Brahmins

The Dravida Munnetra Kazhagam The DMK was established by C N Annadurai, who left the Dravida Kazhagam in 1949 Its centre of activity is the State of Madras

Regional Party The DMK is not an All India Party having national aims and aspirations, but a regional party with its activities concerning only the people of the South, particularly those in Tamil Nad Its attitude has been regional and parochial, and many of its activities were detrimental to the larger interests of India It directed its activities against the advocates of Hindi in the North and the Brahmins in the South The DMK is given to a narrow, violent and agitational approach, and many of its tactics have been very crude It developed fissiparous tendencies and regional chauvinism by demanding Dravidasthan comprising the Tamil areas of South India and to check its activities dangerous to the incipient Indian nationalism

The DMK is anti-Hindi anti-Congress, anti-Brahmin and anti-North It openly preached secession and advocated the formation of Dravidasthan To check the threat of balkanisation coming from the DMK the sixteenth amendment of the Constitution was passed in October 1963 making it a crime to preach secession Since then, the DMK does not harp on the tune of Dravidasthan

Progress and Victory in the Fourth General Election

In the Second General Election (1957), the DMK annexed a large number of seats in the Madras Legislative Assembly to become the second largest party

In the Third General Election (1962), it registered further progress, and in the Fourth General Election (1967), the party, taking full advantage of the mistakes of the Congress, captured the

largest number of seats in Madras and could form the government, driving the Congress Party into the opposition

The DMK was responsible for delivering one of the worst blows to the Congress P Shrinivasan, a 28 year old student belonging to the DMK who contested an Assembly seat in the Virudhunagar constituency took the whole country by surprise by winning a victory against his Congress rival K Kamaraj, the President of the Indian National Congress

Rise to Power The spectacular rise of the DMK to the seat of power in the Madras State, the stronghold of the Congress after the Fourth General Election was an event of extraordinary significance The DMK leader C N Annadurai formed a ministry in March 1967 and secured the moral support of C Rajagopalachari, one-time top ranking leader of the Congress Party and at present the greatest leader of the Swatantra Party The entire country has been keenly watching the performance of the DMK Annadurai promised a clean and efficient administration, and rice at rupee one per kilo

It has to be admitted that as Chief Minister Annadurai commanded great loyalty and love of the Tamilians, and his untimely death in 1969 showed the great reverence people had for him His funeral was reminiscent of the funerals of Mahatma Gandhi and Pandit Nehru Indeed "Anna" as he was being affectionately called had built his charisma in the State of Madras later on renamed Tamil Nadu

Karunanidhi who succeeded Annadurai as the Chief Minister has also developed a good image, and has been faithfully following the footsteps of the late 'Anna'

Performance in Elections

In the Lok Sabha the DMK secured 2 seats in a house of 494 in the Second General Election (1957)

In the Third General Election (1962) it contested 18 Lok Sabha seats and won 7 in a house of 494

In the Fourth General Election (1967) the party contested 25 Lok Sabha seats and won all

Rising Importance The importance of the DMK increased after the break up of the Congress in 1969, as Prime Minister Mrs Indira Gandhi reached an understanding with the DMK leader and Chief Minister Karunanidhi regarding the support to

her government in the Lok Sabha The Prime Minister had to lean at times on the 25 DMK votes in the Lok Sabha

The DMK has been demanding more and more autonomy for the States and Chief Minister Karunanidhi, taking full advantage of the newly found importance of his party has been asking for a higher and higher price for his support to the Prime Minister In the National Development Council, which met to discuss the revised Draft of the Five Year Plan in March 1970, most of the Chief Ministers did not bargain hard with the Prime Minister, but the DMK Chief Minister of Tamil Nadu refused to give approval to the Plan unless his three demands (1) the Salem Steel Plant, (2) a share in the special assistance of Rs 800 crores in the Five Year Plan, and (3) a share in the Rs 100 crore grant for drought relief works were considered [1]

2 The Scheduled Castes Federation (SCF)

The SCF was established by Dr B R Ambedkar, the greatest leader of the scheduled caste people While Mahatma Gandhi was trying to emancipate the Harijans in his own inimitable manner, Dr Ambedkar claimed that Gandhiji, a "caste Hindu leader" was not competent to lead the scheduled caste people and that he (Dr Ambedkar) was the true leader of the Scheduled Castes Dr Ambedkar did much for the uplift of the scheduled caste people, and his grateful followers respectfully and affectionately called him Babasaheb Ambedkar

The SCF could not do well in the First General Election (1952) Though it could fare a little better in the Second General Election (1957), it got a setback in the Third (1962)

3 The Muslim League (ML)

Before 1947 The Muslim League was established in 1906 and it received full encouragement from the British Government In 1916, it reached an understanding with the Congress through the Lucknow Pact However, the amity between the Muslim League and the Congress could not last long The ML became strong in the late twenties of the present century Under the leadership of Mohamad Ali Jinnah, it became militant, and made it clear that nothing less than Pakistan coulds ave the Muslims from Hindu domination

1 *The Times of India* March 23 1970
The Salem Steel Plant was granted

The ML succeeded in getting India partitioned and in securing Pakistan, a separate state for the Muslims in 1947

After 1947 In independent India the ML had to give up its aggressive posture, and as an All India party, it paled into insignificance However, the secular nature of the Indian State and the liberal attitude of Congress leaders like Pandit Nehru enabled the ML to carry on with its activities some of which have not been in the larger interests of the country Its activities were conspicuous *in the South* particularly in Kerala The ML was able to secure several seats in the Kerala Assembly in the Second General Election (1957) and in the Kerala Mid-term Election (1960)

In 1960, the frustrated Congress in Kerala unfortunately went to the extent of supporting even a rabidly communal party like the ML particularly to teach a lesson to the powerful Communist Party In the Fourth General Election (1967) it won 14 out of 131 seats in Kerala

Principles The basic principles of the ML are the following

(1) protecting the rights and interests of Muslims and other minorities in the Indian Union

(2) fully supporting the Indian Union in promoting the welfare and happiness of India,

(3) supporting the cause of world peace and harmony

4 The Hindu Mahasabha (HM)

The Hindu Mahasabha was an All India Party, whose origin could be traced to the Hindu revival movement particularly in the Punjab in the early years of this century, and its activities were a counterblast to those of the fanatical Muslims It had leaders of great stature like Lala Lajpat Rai, Bhai Parmanand, Dr B S Moonje, Pandit Madan Mohan Malaviya, V D Savarkar and N B Khare Dr Savarkar infused a new spirit into the party through his *Hindu Rashtravad* and won over to the party eminent men like Dr Shyama Prasad Mukherjee and N C Chatterjee

The HM disagreed with the Congress and particularly criticised the appeasement of the Muslims at the cost of the Hindus.

The HM stood for the principle of "Akhand Hindustan", that is, Undivided India and could not easily stomach the idea of partitioning Hindustan, the land of the Hindus The Hindu Mahasabha leaders sympathised with the activities of the militant Rashtriya Swayamsevak Sangh (RSS) The murder of Gandhiji brought

about a setback to the HM and in several parts of India it lost public sympathy

The HM could not do well at the polls in all the four General Elections

5 The Rashtriya Swayamsevak Sangh (RSS)

The Rashtriya Swayamsevak Sangh is not to be studied under the heading of Political Parties as it is primarily a cultural organization However, it is a powerful influence behind certain political parties, particularly, the Jana Sangh Important leaders of the Jana Sangh are members of the RSS

The RSS was established in 1925 by Dr K B Hedgewar The following are the basic principles of the RSS

(1) Hindu society should be rejuvenated and united, and Hindus should bear in mind the great spirit of Hinduism

(2) People should be patriotic and should render selfless service for the cause of Hindu nationalism

(3) People should come forward and work for the uplift of society and make their motherland great and glorious

(4) Indians should have full faith in the concept of Akhand Bharat

Before Dr Hedgewar died, he appointed Shri M S Golwalkar as the Sar Sangh Chalak of the RSS

The RSS was able to attract a large number of young men and inculcate in them a high sense of discipline and patriotism The sports and cultural activities held under the RSS auspices have been appreciated by all lovers of Hinduism The RSS gatherings everywhere were noted for their discipline, which could not be found in similar other organizations

The partition of India in 1947 and the communal frenzy drew the RSS into the political scene It called upon the Hindus to protect their lives, property, religion and culture, and it did much to relieve the sufferings of refugees

However, many RSS members developed a narrow communal attitude and brought the RSS into disrepute On January 30, 1948 Nathuram Godse assassinated Mahatma Gandhi The murder of the Mahatma by an RSS member brought disgrace to the Sangh

The Government arrested Veer Savarkar, Shri M S Golwalkar and thousands of Hindu Mahasabha and RSS workers under the strong suspicion that they were behind the dastardly crime The RSS was banned, and people who were against the u e of

violent methods for solving political and other problems decided not to have any truck with it

Later in 1949, the ban was lifted, and the activities of the Sangh were started again

The RSS is against the principle of non violence and appease ment, and it expects the Government to protect the integrity of India, the great land of the Hindus It stands for the develop ment of Hindi as the national language, and is dead against regional lism and fissiparous tendencies

The RSS and the Indian National Congre s do not see eye to eye on various matters The RSS criticises the secularism of the Congress as a synonym for the appeasement of Muslims, and the Congress regards the RSS as an obscurantist communal organi sation

The RSS is against communism

6 The Akali Dal

The Akali Dal was established by Master Tara Singh On the formation of the first linguistic State of Andhra in 1953, the Akali Dal demanded the carving of a separate Punjabi Suba Tara Singh launched a great agitation, and even undertook a fast, but the move fizzled out owing to the deft handling of the problem by the then Chief Minister Sardar Pratap Singh Kairon and the central leadership

The Akali Dal di integrated, and two factions were formed, one following Master Tara Singh and the other following Sant Fateh Singh In 1966, the Union Government conceded the demand of forming the Punjabi Suba and the Punjab was reorganized to form the State of Punjab for the Punjabi speaking people and the State of Haryana for the Hindi speaking people

In October 1968 the merger between the Master and the Sant groups took place

Tara Singh went to the extent of demanding a separate home land for the Sikhs (Khalistan), while Sant Fateh Singh was a[illegible] any secessionist move, Fateh Singh launched an agitation to [illegible] up common links between Punjab and Haryana, and [illegible] Chandigarh (the common capital of Punjab and Haryana) [illegible] speaking parts of Haryana and the Bakra-Nangal com[illegible] handed over to the Punjab. He threatened to imm[illegible] in January 1970, if his demands were not conceded

Earlier on October 27, 1969 Mr Darshan Singh Pheruman died on the 74th day of his indefinite fast aimed at securing Chandigarh for the Punjab

Sant Fateh Singh s group aimed at Sikh–Hindu unity, and therefore it was possible in the Punjab to form an Akali–Jana Sangh coalition government This was a great blow to the communal trends which had been released by Master Tara Singh

On January 29, 1970, the Union Government announced its decision to give Chandigarh to the Punjab Sant Fateh Singh gave up his fast and his decision to immolate himself

In March 1970, once again the Akali Dal was divided The Chief Minister of the Punjab Mr Gurnam Singh suffered a stunning defeat in the Vidhan Sabha at the hands of the dominant faction of the Akali Dal, and on March 26, 1970 he resigned Then Mr Prakash Singh Badal, who was fully supported by Sant Fateh Singh and Sant Chanan Singh formed his Ministry on March 27 This followed a split in the Akali organization

Giani Bhupender Singh announced the formation of a parallel Akali Dal on March 28, 1970 about 17 months after the two Akali factions had merged to maintain Panthic unity The *ad hoc* Working Committee and the Parliamentary Board formed when the Master and the Sant groups merged in October 1968 were dissolved

On March 29 1970 Sant Fateh Singh, the President of the Shiromani Akali Dal suspended Mr Gurnam Singh and his colleague in his Ministry (which had resigned earlier) Sardar Atma Singh and the Secretary of the Akali Dal, Sardar Gurcharan Singh for violating party discipline

7 The Bharatiya Kranti Dal (BKD)

The Bharatiya Kranti Dal was established some time after th Fourth General Election (1967)

Principles The following are the basic principles of the BKD

(1) checking fissiparous tendencies and working for national integration,

(2) waging a relentless crusade against bribery and corruption,

(3) organizing good administration,

(4) giving top priority to agriculture and having very heavy industries only at a later stage,

(5) solving the food problem by building irrigation works and abolishing food zones,

(6) getting rid of militant organisations or *senas*,

(7) giving encouragement to the study of urdu,

(8) working for the uplift of backward classes,

(9) working for international peace, and settling international disputes by negotiation, mediation and arbitration

Leaders The important leaders of the BKD are Mahamaya Prasad Sinha, (once the Chief Minister of Bihar) D K Kunte, M S Oberoi, Charan Singh of Uttar Pradesh, and others

8 Jana Congress

The Jana Congress was established towards the end of December 1966

The main aim of the party is to recapture and revive the true Gandhian spirit of the Indian National Congress and work for the uplift of the vast masses of people

The defectors from the Indian National Congress organized the Jana Congress as a rival forum to the Congress These included Humayun Kabir (a former Union Minister of Petroleum and Chemicals), Dr Harekrushna Mahtab (a former Orissa Chief Minister), Ajoy Kumar Mukherji (President of the Bangla Congress) and K M George (President of the Kerala Congress) Acharya J B Kripalani presided over the convention held to establish the Jana Congress

An unsympathetic critic of the Jana Congress described it as the Congress of the Disgruntled, and its members as "persons who have been outmanoeuvred in the struggle of power (who) cannot be expected to fare better with a different political label"

9 The Shiva Sena (SS)

In Maharashtra, Mr Bal Thakare launched the Shiva Sena movement The Shiva Sena is a volunteer organisation drawing inspiration from Chhatrapati Shivaji, the hero of Maharashtra and one of the greatest figures of Indian history

The symbol of the SS is the roaring tiger and the *Marmik* (a cartoon weekly) in Marathi is its official organ

The SS aims at ameliorating the condition of Maharashtrians in Maharashtra their own State in which the sons of the soil are treated as 'hewers of wood and drawers of water" The SS alleges that in the State of Maharashtra, outsiders have "loaves' while the local people have to rest satisfied with "crumbs"

Mr Bal Thakare, the Shiva Sena Pramukh and his Sainiks wish to undo the injustice done to the local people at the hands of industrialists and other employers, who provide employment opportunities to outsiders leaving the Maharashtrians in the lurch

The SS has undertaken voluntary social service of various types For instance, arrangements have been made to distribute milk

The SS also espouses certain political causes It demands justice for Maharashtra in the Mysore-Maharashtra border dispute On March 2, 1970, it organized the "Bombay Bandh", which was fully successful and the whole city was paralysed Mr Thakare called off the "Bandh' four hours before schedule, as he felt that it had served its purpose, and it was unnecessary to inconvenience the public

The SS is thoroughly anti-communist, and it has succeeded to some extent in checking activities of the "Reds", who owe extra-territorial loyalty to Soviet Russia or China In the 1968 municipal election in the city of Bombay, the SS almost wiped out the left dominated Sampoorna Maharashtra Samiti The Communist Party (R) and Communist Party (M) contested 46 seats in the Bombay Municipal Corporation (with a total of 140 seats) but won only 3 the SS contested 97 seats and secured as many as 40 Thus Mr Thakare was able to debunk the claim of the Sampoorna Maharashtra Samiti to represent Maharashtrians

In 1967, the SS captured 17 of the 40 seats in the Thana Municipal Council

10 Other Parties

The other minor or regional parties are the following

(a) The Ganatantra Parishad This party emerged under the leadership of the Maharaja of Patna and other princes and did effective work in the States of Bihar and Orissa

It did well in the Second General Election (1952) in Orissa, and secured the second rank among the opposition groups

(b) The Ramrajya Parishad This party emerged to champion the cause of Hinduism It played upon the orthodox sentiments and emotions of the Hindus by speaking of *Hindu Dharma* and of reviving the golden age of King Rama of the Great Epic It functioned in States like Rajasthan, Madhya Pradesh Uttar Pradesh, Gujarat and Maharashtra Its obscurantist ideas could command

only the support of the orthodox people, and it failed to capture the imagination of people with heterodox and progressive views It could not do well in the General Elections

(c) The Revolutionary Socialist Party The Revolutionary Socialist Party functioned in States like Kerala and West Bengal Its performance was poor in the General Elections

(d) The Jharkhand Party This party emerged to champion the cause of the tribal people in States like Bihar, Orissa and Madhya Pradesh

(e) Forward Blocs There are two forward blocs, one is known as the Forward Bloc (Marxist) This was organised by Netaji Subhash Chandra Bose when he resigned in 1938 as President of the Indian National Congress The other is the Forward Bloc (Ruikar) group Both these groups could not do well in the General Elections

(f) The Garo National Council This party was organised in the interests of the Garo Tribesmen in Assam, and thus it functions only in that State

(g) The Peasants and Workers' Party This party functions in Maharashtra

M Criticism of Indian Political Parties in General

When we study the constitution, structure, attitude and the actual working of the various Indian political parties, we can make certain observations by way of criticism

1 Lop-sided Development The development of political parties have been lop-sided For nearly two decades, the Indian National Congress alone had an excellent organisation, ample funds, wide membership, contact with the masses of people and dynamic leadership The failure of any other party to come anywhere near the Congress accounts for the serious drawbacks of parliamentary democracy in India

2 Multiple Party System and Pale Opposition The list of Indian political parties is very long, and the names of many of these parties or groups are not known beyond the limits of a locality or a State In several cases, it is difficult to distinguish between the programme of one and that of the others Some parties have failed miserably in all the General Elections The opposition groups at the Centre and in the States have been pale and lifeless, and for nearly two decades, the Congress could easily brush them aside

3 **Based on Violence** Some parties have no faith in democracy, and they have contempt for the methods of peace and persuasion For example the Communist Parties (both Rightists and Leftists) believe in violence, class war and bloody revolution

4 **Lack of Discipline** Most of the parties lack discipline Members of various parties in their quest for power pay scant attention to party discipline, as they regard the party to which they belong as an instrument for self aggrandisement Members, who are denied party tickets for election or members against whom disciplinary action has been taken quit the party, and in despair and frustration they may form a rival party Many a time, members come to blows 'Complete pandemonium marked by fist fights disturbed SSP s special convention for about an hour" on January 9, 1970 at Lohianagar, Sonepur'[1] In the Congress, Prime Minister Mrs Indira Gandhi herself set a bad example by her numerous acts of party indiscipline

5 **Factionalism** Almost every political party has suffered in strength and prestige owing to chronic factionalism The Communist Parties, the SSP and others have displayed the most destructive type of factionalism As stated earlier, the Congress broke into factions, as the 'Syndicate" and "Indicate" reached the point of no return The Swatantra Party and the Jana Sangh also are not immune to factionalism Reckless factionalism or stasis has undermined the SSP particularly, and the same fell disease has overtaken the Congress

6 **Defections** Another malady, which developed mostly after the Fourth General Election (1967) is defecting Members of some parties have no loyalty to any principle or even to their own conscience Power is their guiding star, but here power is completely divorced from service and public welfare Ministries in several States are shaky, owing to the reckless and vulgar manner in which members part company with their party members Chief Ministers in certain States have to give high posts to certain members as the price of their 'loyalty' Leaders of political parties do not try to check defection, as they have too many skeletons in their cupboards In some cases, even big (in the relative sense) leaders have defected Sometimes even leaders at the Centre encourage defection

1 *The Times of India* January 10 1970

MAIN POINTS

1 **Meaning and Importance of Political Parties** 1 Science of political parties [illegible] known as [illegible] Parties are organised groups trying to secure control over government to push forward their policies Identification with one group and different [illegible] from another 2. Parties extra legal and constitutional in growth Control of [illegible] through political parties Parties life line of politics. 3 Types of Parties Conservative Liberal Radical and Reactionary Rightist and Leftist

2 **Origin and Organisation of Parties** (a) Rose with democracy Factors [illegible] Human nature 2 Various economic views and aims 3 Environment 4 Religious and communal feelings. (b) Parties held together by ideology and organisation. Well organised party is a state within a state

3 **Functions** 1 Brokers of Ideas organising public will. 2 Explaining stand and policies. 3 Enlightening and educating people. 4 Efforts to capture power 5 Forming government 6 Forming opposition.

4 **Different Party Systems** 1 Single Party System In totalitarian and authoritarian one-party states like Nazi Germany and Soviet Russia 2 Two Party System Ruling party and opposition party Makes for stability But one party dictatorship possible 3 Multiple Party System In France and India No cabinet dictatorship Greater liberty for individual

5 **Pressure Groups and Lobbies** Private associations not capturing power but at influencing public policy Pressure

legislature and public opinion Lobbies influence only legislature Groups hold ing a variety of causes Public relations work Help millions to express their ideas Drawbacks Influence not all for the good Unwholesome methods Wining and dining legislators

6 Merits of Party System 1 Indispensable 2 Helps individuals 3 National interests protected 4 Enlightening and educating the public. 5 Fighting elections 6 Canalising ideas 7 High standard in legislature 8 Peaceful change of government possible

7 Defects 1 Divide people 2 Unhealthy propaganda 3 Cra e for power 4 Bribery and corruption 5 Honest opinion impossible 6 Party dictatorship

Conclusion Parties useful and partyless democracy impossible

8 Political Parties in India I All India Parties–the Indian National Congress the Swatantra Party the Communist Parties Bharatiya Jana Sangh PSP and SSP 2 Less Important or Regional Parties–The DMK the Scheduled Castes Federation the Muslim League the Hindu Mahasabha the RSS the Akali Dal the BKD the Jana Congress the Shiva Sena and other parties

Section XVIII

LOCAL GOVERNMENT

CHAPTER 63 ORGANIZATION AND FUNCTIONS OF LOCAL GOVERNMENT

A Meaning of Local Government

Division of Territory for Convenience and Efficiency For carrying on the work of government efficiently, the country is divided into many parts In *India*, for instance, the territory is divided into States, in the USA into States, and in Switzerland into Cantons

In India, each State is subdivided into districts, talukas and villages The Central Government or a State Government in India does not directly deal with the problems of the various localities and areas These are looked after by what are called local bodies Corporations, municipalities, district boards, taluka boards and village panchayats are the local self-governing bodies in British India In recent years, Panchayati Raj was introduced all over India

In the USA most of the States are divided into counties

The size and nature of each unit vary from country to country

Government of Local Areas by People's Representatives Local Self-Government is the government of a specified locality by the local people through the representatives elected by them The modern state comprises of a vast area and a huge population It, therefore, becomes difficult to administer the modern state

efficiently from a single seat of authority There are some Departments like Defence, Posts and Telegraphs, and Railways, which have got a common character and their working affects the whole country Such problems require a common solution, and can be easily and efficiently handled well by an authority at the Centre But there are other problems of a local character, e g, water-supply, electric supply, sanitation, etc, which only the local people can well tackle The wearer knows where the shoe pinches and it is the local people who feel the pinch and naturally feel interested in the solution of these problems Local problems can neither be properly understood and appreciated nor efficiently tackled by a distant central authority

Need of Decentralisation We regard panchayats, district boards, municipalities and corporations as local bodies as they look after the functions not of the entire country but only of the local area concerned Local government is the government of a particular *locus* or area For the purpose of local government, the village town, city or district can be a unit It is not possible for the central government either in a unitary or a federal state to deal with all the local problems of the country Even the provincial governments in a unitary state or the units of a federation will not be able to look after thousands of localities It is therefore absolutely necessary to decentralise power and entrust it to the people of the locality The people of the locality form the panchayat board, taluka board, district board or municipality (at present village panchayats, panchayat samitis and zilla parishads) or dealing with their local problems These bodies are called local bodies, and the subjects of their jurisdiction have only local importance A local body like a municipality looks after sanitation, water supply, street lights, markets, gardens and parks, elementary education, and so on

Features A local government has certain basic features which are the following

(1) It is not sovereign, but subordinate to the central or provincial government

(2) It has a particular local territory or area of jurisdiction

(3) It enjoys autonomy within the framework of the statute creating it

(4) Its functions pertain to the daily life of the people within the area of its jurisdiction

B Organization and Functions of Local Bodies

Elected Bodies for Controlling Local Affairs and Salaried Staff for Routine Matters Local governing bodies are composed of people coming from the local area Office bearers are elected from the locality and not nominated or appointed by government All adults in the locality (if there is adult suffrage) are expected to participate in the local body elections People will learn how to conduct elections, and will also know their significance in a democratic state The more enterprising citizens of the locality will come forward as candidates to contest elections, while the others will rest satisfied in casting their votes The people in the local area will be watching the way in which their representatives serve them in the local body For the efficient day to day working of the local bodies, full time salaried staff must be employed though the members of the executive council are the representatives of the people elected for a short time

Functions Depending on Local Needs, Interest of People and Resources The functions assigned to a local body depend upon the area and its needs and a uniform rule cannot be laid down Much also depends upon the interest the local people evince in their problems, the resources of the locality and the needs of the people A corporation, for instance, has a very wide range of functions unlike a village panchayat But even if we take two panchayats, we will find that both do not have the identical functions A panchayat in a rich area inhabited by educated, enlightened and public spirited people will have more functions than a panchayat in which people are quite indifferent to their problems In advanced countries like Britain, and the USA local bodies can boast of an impressive record of functions

Types of Subjects Broadly speaking, subjects dealt with by local bodies can be classified as follows

1 *Subjects of Utmost Importance* These subjects are water supply, drainage, sanitation, maintenance and repairing of roads, lighting arrangements, medical relief and so on

2 *Subjects of Cultural Importance* These include town-planning, libraries and reading rooms, museums, art galleries, public parks, zoos and so on

3 *Subjects Pertaining to Public Utility Services* These include providing protected water supply, running train or bus services, supply of electricity and gas and so on

The functions of local governments in Western countries c be brought under the following three categories

1 Protective services of public health, sanitation, protecti from fire, police and public safety

2 Physical services like roads and bridges, and public util services like water, light, gas, power and transport

3 Welfare services like education, libraries, hospitals and so o

Compulsory and Optional Functions The functions of loc bodies can be classified into compulsory and optional It is difficu to have a hard and fast rule regarding this classification, for muc depends upon a particular area In advanced localities, the numbe of compulsory functions is large Compulsory functions are those which a local body has to attend and cannot avoid wherea optional functions are those which a local body may or may no attend For instance, in the case of a municipality, maintainin roads and making lighting arrangements are compulsory functions on the other hand, maintaining a park and having art galleries are not compulsory The public will suffer, if roads are not properly maintained, the same cannot be said about public parks and art galleries

C Powers of Local Bodies

Local Bodies Statutory Local bodies are the results of statutes passed by the central or provincial government These statutory bodies are given powers, which are adequate to render the required services E B Schulz says "Some central governments pursue the policy of enumerating or itemizing the powers which local units may exercise Others confer powers in broad and general terms—for instance, by authorizing a political subdivision to deal with matters of local concern ' The latter type of grant obviates the immediate necessity of deciding on the specific things which particular local units may do and also gives localities a freer hand in initiating local action "[1]

Subordinate Governments Enjoying Complete Local Autonomy Local bodies enjoy complete autonomy within the scope provided by statute J A Corry observes 'The place of local government in the constitutional framework must be considered first Local government is subordinate government The city or the country unlike the states or provinces in a federation, has no assured sphere of autonomy that the constitution protects At any

1 *Essentials of Government* (1961) p 482

time, a law passed by the appropriate legislature may abolish local government, or modify or take away some of the powers exercised by it"[1]

Local governments in Britain, the USA and India have been created by statute The local bodies have the power to levy taxes to raise the necessary finances to deal with subjects coming under their jurisdiction They can make the necessary laws and rules to see that the decisions made by them can be enforced on the citizens For instance, a local body is empowered to take legal steps on citizens who violate municipal law or refuse to pay taxes Here, it must be noted that local bodies being statutory bodies cannot pass laws which come into conflict with national law or provincial law The Bombay Municipal Corporation cannot pass a law which goes against the laws passed by the Maharashtra Legislative Assembly or the Parliament

Need to Warn or Supersede Local Bodies It is possible that officials in local bodies may not discharge their duties satisfactorily or they may abuse the power vested in them In such cases government can take action against the offending local bodies or officials, though the government does not interfere in the day to day activities of local bodies It watches from a distance, and refrains from interfering as long as the local bodies discharge their work satisfactorily There are some local bodies, which are guilty of utter dereliction of duties, in such cases government issues warning to them, and if the warning goes unheeded, it supersedes the local bodies

Decentralisation Varies from State to State In conferring powers on local bodies, the same rule is not followed in all countries and therefore local bodies do not enjoy the same range of powers everywhere Some countries believe in great centralisation, while others decentralise as much power as possible E B Schulz says "As a rule local units of government are obliged to function under patterns of government devised for them by an external and higher authority In bodies politic with a unitary system of government this authority usually is the legislature of the national government, under the federal plan, the legislatures of major political subdivisions ordinarily stipulate the type of organization under which minor local units must operate"[2]

1 *Democratic Government and Politics* (1958) p 596

2 *Essentials of Government* (1961) p 485

Power is decentralised in countries like Britain and the USA while in France power is centralised Then again a line of difference can be drawn between local bodies of highly advanced countries and those of backward countries The former have a very wide range of functions, they command ample finances and enjoy complete autonomy They are in fact like small states within a state The latter have a very narrow range of functions, their finances are meagre and they do not enjoy wide powers Unfortunately in India many of the local bodies do not do full justice to their duties

D Conditions of Success of Local Government

Certain conditions are necessary for the success of local government

1 *Maximum Encouragement and Guidance* The first and foremost condition necessary for the success of local government is the encouragement and guidance from government Government must give the maximum scope to the people to express themselves and work through local bodies It should try to solve the difficulties of local bodies, and make available the necessary finances, whenever there is a gap

2 *Adequate Supervision* Government should exercise adequate supervision to ensure that local bodies work satisfactorily and use their finances properly While the government must not interfere in the routine day to day affairs of local bodies it should not hesitate to take action when it is necessary in the best interests of the people

3 *Keen Interest and Initiative by People* Local government will be a succe s only when people show deep interest in their own affairs and take initiative in local bodies It is ultimately left to the people to make a success of local bodies However great may be the encouragement from government local bodies will fail if the people have no interest in their own affairs and do not show the requisite spirit of civic sense and public service

4 *High Literacy and Civic Sense* Where literacy and civic sense are wide spread, local bodies can achieve much But in areas where there is illiteracy and ignorance, local government is bound to fail

5 *Adequate Resources* The most important condition of success is the availablity of adequate resources Local bodies need adequate finance, and for this there should be various rich sources of income This means people by and large should have the necessary

taxable capacity Without ample resources, local bodies cannot function satisfactorily

E Merits and Defects of Local Government

Let us briefly discuss the merits and defects of local government

Merits The following are the merits of local government

1 *Relieves Burden of Central or Provincial Government* Local bodies relieve the burden of the central and provincial governments In modern times, government has to look after a large number of functions, and as days pass their range is widening Without decentralisation of power, government will be top heavy, and it will not be able to do full justice to all the necessary functions E B Schulz observes "If there were no units of local government in a particular country, a single central government would be obliged to attend to all situations requiring governmental regulation and to furnish all public services desired either by the entire population or by the inhabitants of particular localities Its manifold activities would range from the collection and disposal of wastes in local communities to the conduct of relations with foreign countries"[1]

2 *Encourages Initiative of Local People* Local government encourages the initiative of the local people It is the local people who can understand their multifarious problems and take initiative in solving them, and it is they who can be more successful than outsiders The problems of an area can be understood only by the local body and not by the central or provincial government We do not expect, for instance, the Union Government or the State Government in India to know about the problems of a district place or a village Local people alone will take adequate interest in solving their own problems Moreover, the local people will work with enthusiasm and a sense of pride

3 *Democratic Training* Local Self-Government is a training ground for future administrators and politicians It affords an excellent opportunity to the citizens of a particular locality to get training in the art of government The exercise of vote, elections to the local bodies, election of office bearers, discussion on various problems, passing of the budget, passing of legislation and execution of laws give sufficient training to the members of the local bodies to handle national problems effectively at a later date Various

1 Ibid p 475

national leaders in our country were at first members of local bodies Due to these advantages, local institutions have become an important part in the structure of the modern state Local government is a school of democratic training to the people When local bodies are created, people from the locality itself are elected to these bodies, and they can have scope to train themselves in the art of self-government They will develop good civic sense, self-reliance and public spirit to become good citizens Local government has immense educative value It gives opportunities to people to serve themselves and promotes a spirit of service and co-operation among the people of an area It is possible that in the early stages mistakes may be made but these mistakes do not harm the larger intersts of the nation, as they touch local affairs only

Local government is of great importance in a democracy In fact democracy will have little meaning unless there are local bodies in which people are given powers to manage their own affairs There are local bodies in authoritarian states too, but these bodies have to obey the dictates from the top Local bodies can flourish well only in democratic states Bryce says that "the best school for democracy and the best guarantee for its success is the practice of local self-government ' J A Corry observes "We miss the essence of democracy if we think of it mainly as something practi ed by statesmen in a distant capital and forget that it consists of an attitude of mind toward , and a method of dealing with, all the stresses and strains of living together in a society "[1]

4 *Great Efficiency* There will be greater efficiency in a local body when the people serve themselves than when outsiders serve the locality Local people are compelled by their own interests to work efficiently in their local bodies The officials in the distant provincial capital cannot be expected to take interest in areas to which they are strangers and in which they have no reason to show real interest

5 *Economy* The cost of administration will be lowered when the local people themselves look after their affairs Employment of outsiders will be more costly than that of the local people

Defects The following are the defects of local government

1 *Narrow Loyalty* People in various areas are likely to develop a narrow outlook They may concentrate their attention

1 *Democratic Government and Politics* (1958) p 623

on local problems and develop local loyalties and may ignore loyalty to the nation as a whole

2 *No Advantage of Experts of Central Government* Local bodies mostly employ the local people, who are mostly novices or amateurs They may not have the advantage of the expert knowledge and experience of people in the central government

3 *Ugly Local Politics* Local bodies may be dominated by powerful and influential local leaders, who may make use of their power to further the interests of a few people at the cost of the majority in the locality In the Panchyati Raj, introduced with great enthusiasm in India, ugly local politics, characterised by casteism and communalism brought a bad name to democratic decentralisation

The defects of local government are few when compared to the large number of advantages While evaluating local government, one should not commit the mistake of taking backward countries only into consideration The impressive record of local bodies in highly advanced countries will reveal the worth of local government

F Problems of Local Government

As we observed in the earlier chapters, the whole concept of functions of government has changed, and the accent is on the promotion of social welfare

Every local body, whether it is in the rural areas or in the urban areas has to cope with the steadily increasing problems of the local people What were regarded in the past as unimportant problems have assumed great significance now The functions of local bodies are steadily expanding, however, the resources which can be tapped are not expanding at the same rate Functions mean finances

In a locality (it may be a village, a small town or a big city) people need good roads adequate clean drinking water schools, markets and several other pressing facilities The local body may be conscious of it, and it may be keen on discharging its functions, but it may be helpless, owing to paucity of resources If one goes around in India one will be surprised to see that even now, many towns do not have adequate water and the system of drainage is far from satisfactory This is the condition, not because the local bodies concerned are lethargic, but because they do not have resources Local people feel badly let down, when they find the

local body doing little for them but they do not realise that funds are not available

From a want of funds, several evils or drawbacks emerge

G Trends of Centralisation

We have noted in connection with federal government that the recent trend has been in favour of centralisation The same can be mentioned in connection with local government For instance, in Britain the central government has taken over the responsibility for such subjects like planning, housing, education, public health and so on J A Corry observes "Through the convergence of a number of different influences, Anglo-American local self-government has substantially less formal autonomy and independence than it had one hundred years ago or even at the turn of the century There are some who think that the trend we have been examining threatens to take the *self* out of local self-government [1]

MAIN POINTS

1 **Meaning of Local Government** Division of territory for convenience and efficiency Need of decentralisation Local bodies look after local problems Local bodies are statutory

2 **Organization and Functions** 1 Local bodies for controlling local affairs and salaried staff for routine matters 2 Types of subjects–(a) Subjects of utmost importance (b) Subjects of cultural importance (c) Public utility services Classification in Western countries–1 Protective services 2 Physical services 3 Welfare services Another classification–Compulsory and Optional

3 **Powers of Local Bodies** 1 Local bodies have subordinate government according to the statute 2 Supervision of government over local bodies 3 De centralisation varying from state to state.

4 **Conditions of Success** 1 Need of encouragement and guidance from central government 2 Adequate supervision 3 Keen interest and initiative by people 4 High literacy and civic sense 5 Satisfactory economic conditions

5 **Merits** 1 Relieves burden of central government 2 Encourages Initiative by local people 3 Training to people 4 Efficiency 5 Economy

6 **Defects** 1 Narrow loyalty 2 No advantage of experts of central government 3 Ugly local politics

[1] *Democratic Government and Politics* (1958) P 621

CHAPTER 64

LOCAL GOVERNMENT IN DIFFERENT COUNTRIES

Local bodies in England enjoy a good deal of local autonomy that is not found in a country like France Decentralisation is the feature of local government in Britain, whereas centralisation is the feature in France

A Local Government in England

County Boroughs and Administrative Counties England, Wales and Northern Ireland are divided into County Boroughs and Administrative Counties

Administrative Counties are divided into three categories

(1) Non-County Boroughs,

(2) Urban Districts, and

(3) Rural Districts

Each Rural District is divided into Parishes

In England and Wales, there are 83 County Boroughs and 62 Administrative Counties

For local government purposes, urban areas are organized into County Boroughs and these are independent of the control of Administrative Counties All city areas except London are County Boroughs

In the Administrative Counties there are 309 Non-County Boroughs, 572 urban districts and 475 rural districts In the rural districts there are 11,000 parishes

A County Borough has a population of more than 75,000 and it is a self-sufficient unit, whereas the Non-County Borough or Borough or Municipal Borough is a part of the Administrative County

London London is an administrative county having 28 metropolitan boroughs "London in one sense is comprised of the city of London, an area of one square mile and around the city

the administrative county of London, approximately 117 square miles in area, which is divided into twentyeight metropolitan boroughs Greater London includes, in addition to the city and administrative county, the whole of another county and of four other counties, sixty-one minor local authorities, and three inde pendent county boroughs "[1]

Councils In almost every local government unit, the council is the organ, 75% of the members are elected The number of members in the council ranges from 20 to 100, though generally the number is between 20 and 30

The councils have administrative and legislative powers, and work through various committees

Local bodies get grant from the central government They levy taxes on land, buildings and houses

B Local Government in the USA

Heterogeneous and Flexible Local government has a very proud record in the USA The structure of local bodies varies from state to state, and even in the same state there are variations When compared to the local government of England, that of the USA looks more heterogeneous and flexible

Counties, Townships and Cities The largest unit is the county, the whole area is covered by about 3000 counties

Each county is subdivided into towns and townships and cities There are about 10 000 towns and townships and 16,000 urban municipalities known as cities or boroughs

77% of the people live in urban areas and more than 10% of the population is concentrated in the cities of New York, Chicago, Philadelphia and Detroit

Three Types of Municipal Government There are three kinds of municipal government in the USA

(1) The Mayor Council Plan This is applicable to 60% of all cities with a population of over of 5000 In this policy is deter mined by the council, and the mayor, who is elected by the people is the chief executive

(2) The Commission Plan According to this plan, power is in the hands of a commission of three to seven persons About one-sixth of the cities in the USA have this plan Though the

1 J S Roucek and Others *Introduction to Political Science* (1954) p 344

mayor is the head, he does not have more power than the members of the commission He is like any other member of the commission

(3) *The Council Manager or City-Manager Plan* In this system, there is a small executive council and a paid chief executive officer selected by the council The council makes law and the executive officer conducts the administration The city-manager plan has "attracted world-wide attention and has made a really outstanding contribution to the science of municipal government and administration"

Three Plans for Rural Areas The rural areas have three plans

(1) *Town or Township* In this the people of the township generally meet once a year and elect the officers of the township, who conduct the administration for a year

(2) *County Plan* The county is more important than the town The *people of the county elect their officers*

(3) *Mixed System* This combines the features of the town and county

Trend of Centralisation Unlike in England, in the USA the State Governments do not interfere much in the work of the local bodies But as J A Corry points out, the recent trend is towards centralisation "The purpose is to prevent local governments from saddling the tax-payers of the future with crushing payments of principal and interest In over-optimistic mood many communities will embark on heavy capital expenditures if not checked When the future is to be mortgaged for the sake of the present the senior government intervenes to protect the interests of the future"[1]

C Local Government in France

Centralisation Local government in France is highly centralised There is no difference between the rural and urban areas

Departments, Arrondissements and Communes There are 89 departments pertaining to local government each department is subdivided into arrondissements and each arrondissement is divided into cantons and communes France has 170 arrondissements and 37,000 communes

Communes "All communes have the same legal footing and governmental organization although obviously there is considerable social and economic distance between the larger urban centres and the smaller communes, which are rural in nature"[2] Each commune

1 *Democratic Government and Politics* (1954) p 619

2 J S Roucek and Others, *Introduction to Political Science* (1954) p 146

consists of a council with an elected mayor The departmental council deals with administrative policy only and has no control over its executive official known as the prefect Here it must be remembered that the prefect is the agent of the central government The combination of the headship of the department with the agency of the central government shows how centralised local government is Moreover, the prefect is under the control of the Minister of the Interior The prefect is assisted by sub-prefects Every arrondissement has an elected council Every commune, which is like a municipality has an elected council with the mayor as the chairman

Arrondissements The French arrondissement is of no great importance as a unit of local government, it serves chiefly as a subdivision of the department for administrative, electoral and judicial purposes The canton, even of less importance from the standpoint of local government, exists chiefly as an area for the administration of a number of national functions"[1] Owing to central control, which is not found in the USA, French cities are better governed than the American cities The French local government can boast of efficiency, but it is at the cost of autonomy The trend or centralization is very much in evidence in Anglo-American countries

D Local Government in India

1 Local Government in British Period

After conquering the whole of India the British established a highly centralised government, which was organised from the apex to the base The British discouraged the self-governing village communities which existed in India for ages There were however some British Governors-General, who took interest in the local self-government in India Among these, Lord Ripon, the Father of Local Self-Government in India was the greatest

In the British Period, the local-governing bodies in India were Corporations, Municipalities, District Boards and Village Panchayats

2 Types of Local Bodies

Local self-governing bodies in India are of two kinds (1) Urban, and (2) Rural

Corporations and Municipalities are urban bodies District Boards, Taluka Boards and Village Panchayats are rural bodies

1 Ibid p 346

1 Corporations Big cities like Bombay, Madras, Calcutta, Poona, Bangalore, Nagpur, Kanpur and Ahmedabad have Municipal Corporations, which have elected members of their respective cities Their Presidents are called Mayors

General Body and Committees Members of corporation are called Councillors (Corporators or City fathers) and they constitute a General Body What the legislature is to a State Government, the General Body of the Corporation is to a Local Government The General Body lays down the policy, passes the budget and frames rules and regulations, which the officers have to execute and the citizens have to obey

For the convenient transaction of business and efficiency of administration, the General Body is divided into various Committees to look after specific purposes e g education, housing, sanitation etc The Standing Committee is the most important of all Municipal Committees It exercises general control over the working of the municipal machinery It scrutinises the budget before it is presented to the Municipality It sanctions contracts, examines weekly accounts, and frames general service regulations for the municipal staff It is thus an independent link between the Municipal Executive and the General Body

Officials The administrative officer, i e the Municipal Commissioner or the Chief Officer looks after the management of the Municipal Corporation or the Borough Municipality respectively The chief executive officer of the Corporation is called the Municipal Commissioner He is appointed by the State Government and is generally a senior member of the Civil Service This power is exercised by the Government, because it is thought necessary that the Chief Executive Officer of the Corporation should be an experienced, efficient and strong man, independent of the control of the members This Administrative Officer, the Municipal Commissioner or the Chief Officer, is assisted by a number of officials like the Health Officer, the Engineer, Inspectors, etc in the work of supervision over the various activities of the Municipalities

Functions Municipal functions are of two kinds (i) Obligatory functions, which all Municipalities have to perform, and (ii) Optional or Discretionary functions, the extent of which depends upon the availability of funds and various other factors

(i) Obligatory Functions Lighting of streets and public places, water-supply and cleaning of public streets and extinguishing

regulating offensive or dangerous trade , registering births and deaths, public vaccination, constructing, altering and maintaining public streets, markets, slaughter houses, drains, washing places, tanks, wells etc establishing and maintaining public hospitals and dispensaries and primary schools, etc are obligatory functions

(ii) *Discretionary or Optional Functions* Maintaining public parks, gardens, libraries, museums, mental hospitals, halls, dharmsalas and guest houses etc are optional functions

Sources of Revenue The chief sources of revenue of the Municipalities are local taxes The following kinds of taxes are generally levied (i) taxes on buildings or lands or both, (ii) vehicles tax (iii) taxes on animals, (iv) octroi on goods, (v) pilgrims tax, (vi) drainage tax, (vii) general and special water tax, (viii) tax on consumption of electricity and (ix) general sanitary cess, etc

2 Municipalities Big towns with a population of not less than 15,000 have borough municipalities Their functions and sources of income are similar to those of corporations

3 District Local Boards These local bodies have jurisdiction over the whole district Members of these bodies are elected and these members elect the President and Vice-President

The important functions of District Boards are constructing and maintaining roads, lighting, cleaning and watering streets, building and running schools, maintaining farms encouraging agriculture and cattle breeding looking after pounds and ferries, public health and sanitation, regulation of markets, census, famine relief etc

The sources of income for District Boards were tax on land, fees, and fines, tax on vehicles etc

4 Taluka Boards These used to act as agents of District Boards

5 Village Panchayats At the village level there are Panchayats

3 Local Bodies Since 1947

In the rural areas, Panchayati Raj was introduced on the bas.. of the recommendations made by the Balwantrai Mehta Committee (1957-58)

In the urban areas there are the following local bodies

(1) Corporations These are in big cities with a population not below 5,00,000

(2) Municipal Committees These are in towns having a population of 20,000 or more

(3) Town Area Committees These are in towns having a population above 10,000 and below 20,000

(4) Notified Area Committees These are for places having a population between 5,C00 and 10 000

Panchayats These areas having a population of less than 5,000 having Panchayats

Control Over Local Bodies The State Government exercises a good deal of control over local bodies in India The Commissioner, the Collector, or any other officer authorised by the State Government, may enter the premises of a local body and inspect any immovable property occupied by a local board or a municipality and may call for and inspect any documents, account, report or return In a similar way, the Collector and the District Local Boards have the right to supervise the work of the Village Panchayats The auditing of accounts of Village Panchayats is done by the District Local Boards and that of the Municipalities and District Local Boards by the State Government In case of incompetence, gross mismanagement or negligence in the performance of their functions, the State Government may dissolve a local body or supersede it for a specific period

Village Panchayats Broadly speaking, when the British conquered India, the Village Panchayats consisted of the Council of Elders usually five in number which functioned as the village executive and a general council consisting of heads of the families of the village At times, the Village Council met to consider the problems of the village It was the deliberative body and its proposals were sent to the Council of Elders who were responsible for carrying them out The Village Council had a share in the appointment of the Council of Elders

Functions The Village Panchayat discharged a number of functions It acted as a municipality in that it looked after sanitation and cleanliness of the village, maintained the village well which was the main source of drinking water and such other function

The Panchayat also performed political functions It was the unit of administration of the village and looked after the security of the village It assisted the Gramani in the collection of taxes and in the administration of law and order

It also acted as a court of arbitration settling disputes among the villagers It heard both civil and criminal cases and the decisions were taken by the majority

4 Panchayati Raj (Democratic Decentralisation)

1 Meaning The word 'panchayat' literally means a group of five persons elected by the people of a village B Rudramoorthy says "In essence Panchayati Raj consists in the constitution and working of statutory democratic institutions at the local levels and the decentralisation and devolut on of power and resources to these institutions to enable them to function effectively as local self-government units assuming responsibility for planning and development of the people and area in their jurisdiction"[1] Panchayati Raj also means democratic decentralisation In ancient times, there were self-governing communities in India But with the establishment of British power, which was highly centralised the local bodies in India received a death blow The British built from top to bottom in their own imperialist interest and the hoary village institutions fell into decay

Even before the dawn of independence national leaders wanted to improve local self-governing bodies The fathers of the Constitution of India also bore in mind the importance of having broad-based and vigorous self-governing bodies In keeping with the spirit of the Directive Principles of State Policy that the State shall take steps to organise Village Panchayats and give them the necessary powers to enable them to function as units of self-government, Panchayati Raj was organised practically all over the country

2 Aims of Panchayati Raj The following are the aims and objectives of the Panchayati Raj

(1) India has chosen democracy as a form of government and way of life It is, therefore, essential that people's co-operation should be fully sought. People should be given opportunities to come forward to cooperate with government in serving themselves Panchayati Raj aims at having the active and direct co operation of the people

(2) Panchayati Raj aims at the cultivation of local leadership, which alone can make a democratic form of government a success

(3) Panchayati Raj provides wide scope to the people to participate in the national plan and programme

1 *Extension in Planned Social Change* (1964) p 203

(4) Panchayati Raj aims at giving training to people in the rural areas and developing in them the quality of self-reliance

(5) Panchayati Raj also aims at increasing political concious ness among the rural people and creating in them a sense of legitimate pride

(6) While Panchayati Raj puts power into the hands of the local people, it relieves the pressure on the state government and reduces the burden of government officers

(7) It aims at having greater efficiency in administration Through Panchayati Raj there can be efficiency with people's co-operation S M Shetty observes in the "Modern Review" (May, 1964) "Historically speaking the scheme is not a new one The existence of such democratic institutions dates as far back as recorded history itself However the problem is not one of reviving the traditional village, but of creating vigorous and pulsating new units, which will function as the organic links of a developing democratic country"

Directive Principles One of the Directive Principles, as given in Article 40 of the Constitution says "The State shall take steps to organize Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government"

3 Balwantrai Mehta Committee Scheme The Government of India wanted to bring about an integration between the Village Panchayat administration and the Community Development Projects, and a Committee headed by Balwantrai G Mehta was appointed in 1957 to prepare a plan for the establishment of Panchayati Raj or democratic decentralisation

The Mehta Committee proposed the establishment of a three tier Panchayati Raj scheme in its report in 1958 The three tiers are

(1) The Panchayat covering one village or a group of villages at the bottom

(2) The Panchayat Samiti at the higher level

(3) The Zilla Parishad at the District level

This plan ambitiously aimed at bringing democracy at the grass-root level, at rousing to action the vast masses of people in the rural areas, and at establishing a close contact between the people and the community development projects

The scheme was to be implemented with local variations over the country There was to be flexibility according to needs and calibre of the people in the various parts of India A Nilakanta Sastri says "Panchayati Raj comes in as the r appropriate means for the promotion of community planning it has developed since 1959, its pattern is not identical in all sta urban areas, for instance, are included in its scope in Rajast but excluded in Madras But generally speaking, it has a thr tier constitution First of all, at the bottom we have the Vill Panchayat for one village if it is of sufficient size, or for a gro of villages if they are small, higher up we have a Panchayat Un comprising a group of Panchayats roughly corresponding to Community Development Block and above it a Zilla Parish (District Council) The relation of these new areas of Panchay Raj to the old revenue divisions in each state is a matter of det which varies from State to State In Madras no Panchayat Villa is to have a population fewer than 1,600 and villages with 5,0 and above will be Panchayat Towns"[1]

Community Development Projects In recent years, muc emphasis has been laid on the Community Development Programm Community development has been defined as "a movement desig ed to promote better living for the whole community with th active participation and if possible, on the initiative of th community, but if this initiative is not forthcoming spontaneously by the use of techniques for arousing and stimulating it in orde to secure its active and enthusiastic response to the movement"[2]

The Panchayati Raj was to be the remedy for the indifferenc and inertia of people in the various rural areas People were to be encouraged to come forward in associating themselves intimately with the government in solving their own problems

Village Panchayats, Block Samitis and Zilla Parishads According to the Mehta Committee, Village Panchayats, Block Samitis and Zilla Parishads were to be linked and were to cover all areas up to the district level

At the taluka level, the old Taluka Boards were to give way to the Panchayat (or Block) Samitis, and at the District level the District Boards were to be substituted by the new Zilla Parishads

1 *The Illustrated Weekly of India* (May 11 1963) p 43

2 Quoted in Park and Tinker (Ed) *Leadership and Poitical Institutionalism in India* (1959) p 358

The various village Panchayats would federate at the block level and the various blocks would federate at the district level, where there would be the Zilla Parishad

A Zilla Parishad is composed of

(1) Presidents of Panchayat Samitis,

(2) members of the State legislature and Parliament from the district, and

(3) District Officers dealing with public health, agriculture, education public works and so on

The District Collector will be the Chairman of the Parishad Between the Zilla Parishad and the Village Panchayats, the Panchayat Samiti will be the link

Functions of Zilla Parishad The following are the chief functions of the Zilla Parishad

(1) to distribute funds sanctioned for the district among the various Panchayat Samitis,

(2) to supervise the work of the Panchayat Samitis

(3) to scrutinise and approve of the budgets of the Panchayat Samitis, and

(4) to bring about a coordination in the plans drawn up by the different Panchayat Samitis

A Panchayat consists of about five to nine members A Panchayat can do well, if it can command adequate finances, if villagers cooperate, and if the Samitis and government give the necessary support and guidance According to the new legislation, Panchayat Samitis came into existence A Panchayat Samiti has to supervise, control and guide the Panchayats in their various activities A Panchayat Samiti is composed of primary members, who are elected by the Panchas and the Sarpanchas of all Panchayats in a block, coopted members, associate members and ex-officio members The Chairman and Vice-Chairman are elected by the primary and coopted members, associate and ex-officio members have no vote

Functions of Panchayats Since independence the importance of Panchayats has been increasing steadily Panchayat Acts have been amended to increase the powers of Panchayats to enable them to play their role as the basic units of "local self-government and agencies for planning and execution of development activities in the villages"

The functions of Panchayats are the following

1 *Civic and Developmental* These include law and order, social services and public welfare activities, activities to promote

the economic conditions and public works Thus a Panchayat ca keep it elf engaged with maintaining peace and order in the village with improving agriculture and animal husbandry, maintaining and constructing petty irrigation works, and with the construction and maintenance of Panchayat buildings, roads, and bridges

2 *Judicial* These include the settlement of small revenue cases and petty criminal cases

Nyaya **Panchayats** To discharge judicial functions, Nyaya Panchayats or small village courts with strictly limited powers have been established Lawyers are not allowed to appear before Panchayats

4 **Panchayati Raj in Maharashtra** Maharashtra was keen on infusing a new spirit in the rural areas, and the government introduced new legislation The Bombay Village Panchayat Act (1958) as a unified Village Panchayat Legislation gave wide powers to the Panchayats It set up *Gram Sabhas* composed of adult residents of the village As this step was inadequate and the desired objectives were not realised, the Maharashtra Government introduced the democratic decentralisation scheme on May, 1, 1962 along the lines proposed by the Balwantrai Mehta Committee Scheme

According to this, a Panchayat Samiti serves as an organic link between the Village Panchayat and the Zilla Parishad Adequate powers are vested in the popular authorities at three levels

(1) Village Panchayat,

(2) Panchayat Samiti, and

(3) Zilla Parishad

Each village or a group of small villages will have an elected Panchayat

Several Panchayats will form a block, and several blocks will form a district

Each block will have a Panchayat Samiti and each district a Zilla Parishad

The Zilla Parishad functions through committees, one for each subject, with a standing committee above them all The main source of finance for the Zilla Parishad is a state grant equal to 70/ of the land revenue collected in the district Other grants also will be made available.

5 **Functioning of Panchayati Raj (Democratic Decentralisation)** Early in 1964 a committee headed by Mr K Santhanam

M P was appointed to study and report on elections to Panchayati Raj The committee report revealed various drawbacks of PR By and large PR has been a failure Reports from the various parts of the country do not speak well of the functioning of the Panchayati Raj institutions In May 1965, Mr V Vishwanathan, Chief Commissioner of Delhi remarked that the Panchayati Raj experiment in the villages in Delhi had failed "In 79 of the 357 Village Panchayats the Chief Commissioner said public lands worth nearly Rs 3 crores had been allowed to be in illegal possession of private individuals"[1] All the 79 Panchayats had been superseded by the Delhi Administration Similarly, in U P Villages, Nyaya Panchayats had failed to do justice to the poor and the weak, and Panchayati Raj had become a handmaid of party politics A report on the PR in the Punjab in 1966 also stated that Panchayats were lifeless and ineffective

The following causes explain the poor record of Panchayati Raj

(1) As observed by the All-India Panchayati Raj Parishad which met in Bangalore in June 1964, work is done in a painfully slow manner and there has been an unfortunate want of promptitude in the implementation of the various plans

(2) Panchayat leaders are unwilling to impose taxes, as they are afraid of becoming unpopular

(3) There is a lamentable lack of self-reliance among the people and they look more and more to State Governments for support

(4) In many parts of the country, Panchayati Raj institutions have become nests of casteism, communalism and factionalism

(5) Level of honesty is not high In fact, it is depressing to note the prevalence of manipulation of accounts and other corrupt practices

(6) Government officials have not changed their attitude There is the same stiff-necked bureaucratic approach Evidently they seem to forget that they are in the set-up of democratic decentralisation They do not give proper guidance to the people who need it

(7) Indifference and apathy of the people coupled with their quarrelsome nature also explain the pathetic state of affairs

(8) Want of good qualities of leadership is another cause

5 Remedies The record of several Panchayats is so bad that any one seeing it is bound to be pessimistic about the future

1 *Th Times of India* (May 20 1966)

of Panchayati Raj Now, what is the solution? Certainly not the liquidation of Panchayati Raj Instead of ending it, steps should be taken to mend it

The following remedies would certainly improve matters

(1) Villages which are not economically viable should be bunched together

(2) Villagers should be educated and Panchayat members should be properly trained

(3) Adequate publicity and propaganda should be conducted

(4) Gram Sabhas should note that they should conduct themselves like legislative assemblies

(5) A proper compromise between centralisation and decentralisation should be made

(6) Grossly inefficient and corrupt persons should be brought to book

(7) If necessary, the Constitution should be amended to set things right

(8) Activities of Panchayats should be effectively controlled and supervised

(9) Political parties should not be allowed to seize power in Panchayats In fact, political parties themselves should come to an agreement that they will not interfere in the affairs of local bodies

6 Drawbacks in India's Local Self-Government

The scheme of democratic decentralisation was introduced almost all over the country with great enthusiasm and high expectations But the results so far have been very disappointing "Almost every inquiry into the working of these institutions has shown that except in a few States such as Maharashtra and Gujarat, the whole structure of Panchayati Raj rests on weak foundations As long as experienced Sarpanchas, ill defined procedures, inadequate liaison with technical departments and entrenched vested interests continue to distort the scope and application of every new piece of reform any further decentralisation of power may only accentuate, instead of mitigating the existing evils"[1]

The progress in India's local self-governing institutions has been very much below expectations owing to the following causes

1 *Poverty* India is one of the poorest countries in the world, and poverty has been one of the worst obstacles in the way of local self government From this parent malady so many subsidiary maladies follow Owing to the low taxable capacity of the people,

1 *The Times of India* December 3 1968

local bodies have not been in a position to raise adequate funds Many of them have imposed taxes to the maximum extent

2 *Too Much Official Interference* During the British regime, (which was responsible for ushering in a new era in local self-government in the time of Lord Ripon) in many cases, excessive official interference stifled the spirit of the local bodies Conditions are not far better now and in many parts of the country government officials continue to show the same stiffnecked attitude

3 *Selfishness and Incompetence* In several local bodies, unscrupulous, selfish and incompetent people have come to power and brought discredit to these bodies

4 *Lack of Interest Among People* In several areas, people were woefully found wanting in interest, enthusiasm and calibre The high civic sense and public consciousness found in the advanced democracies are lamentably lacking in India

5 *Casteism and Prejudices* Besides inertia and apathy, local bodies are dominated by casteism and narrow-mindedness "If a dark shadow falls between the idea and reality of Panchayat Raj, it is because the cabinets of elders in most villages function as agencies of the dominant caste They do nothing to improve their resources, refuse to make u e of such taxation powers as they have and neglect the interests of the poorer sections of the village community"[1] Even now consideration of caste, subcaste creed, religion and language have won the upper hand in local affairs Local prejudices have been rampant all over the country

6 *Poor Leadership* Leadership at the local level has been poor in quality and quantity

7 Problem of Leadership

Good Leadership Necessary Leadership has been a great problem in India, without good leadership local self-government including Panchayati Raj is bound to fail In a country in which for more than a century and a half a foreign imperialism imposed its will on the people and left absolutely no initiative to them, the problem of producing good leadership has been indeed great Leaders whether at the national level or at the village level can not be produced by magic

Conditions Necessary In most of the parts of the country conditions conducive to good and dynamic leadership are absent

1 *The Times of India* January 1 1964

gent and honest people are not slow to realise the great change that has come over the country, others will take time to adapt themselves to the changing times and to the new atmosphere

Young Blood Also Necessary Leaders in the Government and in the Congress Party can do much in creating the necessary leadership A very unfortunate feature of leadership in India is the suspicion with which elder statesmen look upon the younger generation Criticising the younger generation will not solve the problem of leadership Youngsters must be trained and encouraged to come forward to learn and lead in the future At present the monopoly of leadership is in the hands of leaders who are over the age of sixty The problem of replacing old leaders when they pass away can be solved with relative ease, if young blood is given opportunities to rise With the passing away of Pandit Jawaharlal Nehru on May 27th, 1964 a great vacuum was created in the Government and in the Congress Party This vacuum could not be easily filled as leaders were not specially trained to undertake the responsibilities which Pandit Nehru had shouldered While we went on asking the question 'After Nehru What?" we did not seriously work to answer the question After Nehru's death Mr Lal Bahadur Shastri became Prime Minister He remained in office for about 18 months and died in January, 1966 Then there was the problem of selecting another leader Mr Shastri was followed as Prime Minister by Mrs Indira Gandhi

The problem of leadership at all levels has been great, as the general tendency of those who assume power has been to retain power as a monopoly till their death and give no opportunities to others to learn and cultivate the spirit of leadership While people should respect wisdom and old age in seasoned leaders and allow them to continue to lead, leaders should also realise their own limitations of old age and failing health and treat young leaders of the lower level with great sympathy and understanding India badly needs a happy combination of the wisdom of old age and the spirit of youth

MAIN POINTS

1 **Local Government in Britain** Good deal of local autonomy County boroughs and Non-County Boroughs London an administrative county with 28 metropolitan boroughs

2 **Local Government in the USA** Heterogeneous and weak Counties town-ships and cities Three types of municipal government—Mayor Council Commission Plan and City Manager Plan

Section XIX

INTERNATIONAL ORGANISATIONS

CHAPTER 65 THE LEAGUE OF NATIONS

The League of Nations is studied under international organizations

A Background

Machinery to Settle International Disputes Bickerings, tension and enmity between two states may arise owing to several causes, but there can be no war between them, if there is a machinery to settle their differences amicably In the history of the world, there have been instances when wars were prevented either because good sense prevailed ultimately or a third party settled the disputes to the satisfaction of both the parties In the nineteenth century, the world came to know what a catastrophic war means when it utilises all the inventions of modern science for the purpose of destroying property and killing and mutilating people on a mass scale Nations felt the need of a permanent machinery with the help of which international disputes could be settled

Hague Conferences Advocate Permanent Court of Arbitration The meeting of the Hague Conference in Holland in 1899 owing to the lead given by Czar Nicholas II of Russia was a great landmark in international relations, as it was decided that there should be a permanent court of arbitration The result of the first Hague Conference was the formation of a panel of jurists to which nations might voluntarily submit their differences The Hague Tribunal included some of the most eminent names in the legal profession,

drawn from all countries and it dealt with any international problems where its advice might be helpful"[1] Obviously, such a court could not impose its decisions on unwilling parties, but could give verdict only to parties which desired to have arbitration

Eleven states took advantage of this Court of Arbitration and accepted its verdicts during 1899-1912

In 1907, the Second Hague Conference was held in order to revise the system of arbitration drawn up in 1899 and frame rules of war Under the leadership of Britain, the Conference wished to establish an International Prize Court for appeal

The world looked with great hope at these Hague Conferences, and the First Hague Conference (1899) was regarded as "the parliament of mankind" Jerzy Shapiro points out 'These conferences resulted in the Hague Conventions for the pacific settlement of international disputes and in the creation of the Permanent Court of Arbitration, which still exists in the form of a panel of names of experts in international law from among whom arbitrators can be chosen"[2]

The world was misled by what happened during the decade following the First Hague Conference and felt overoptimistic about the future of mankind During this decade, many peace treaties were signed, and false hopes were raised that all disputes between nations could be settled peacefully through arbitration, and that the possibility of future wars could be eliminated

In the second decade of this century the world realised suddenly that the leading nations were not sincerely eager to settle their outstanding questions peacefully and that they wanted to fight a global war

B Birth and Aims of the League of Nations

World War I and Birth of the League of Nations During the decade in which international disputes were settled peacefully, the major nations of the world were making large scale preparations for a war, the like of which the world had not seen In 1914, World War I broke out, and ended in 1918 The war brought great destruction in terms of human lives and material The cost of war was 10 million human beings and 386 thousand million dollars

1 J S Roucek and Others *Introduction to Political Science* (1954) p 660
2 *The Newspaperman s United Nations* (1961) p 16

Great statesmen of the world were eager to have an international organisation, which could settle international disputes and prevent the outbreak of another world war Among them, Woodrow Wilson, the great idealist and visionary took the leading part, and prepared the ground for the establishment of the League of Nations "This (League of Nations) was largely the brain-child of Woodrow Wilson, President of the United States, who in turn had acquired many of his ideas, regarding it from numerous peace societies which had flourished previous to the outbreak of the war Wilson believed so firmly in the League that he was willing to make many concessions in the treaty merely in order to secure its inclusion "[1]

The plan to ban war and to have an international organisation to promote world peace and co operation evoked enthusiastic response from several nations After the end of the war, 27 nations formed an association of states, known as the League of Nations

Aims of the League of Nations The ideals of the League of Nations were not new to the world In the eighteenth century Kant had spoken of eliminating conditions leading to war in his Book *Perpetual Peace* (1795) The aims of the League of Nations were given in the Covenant of the League, which was a part of the Treaty of Versailles (1919)

(1) Nations should not resort to war, but take the prevention of war as an obligation

(2) Nations should co operate with one another to promote international peace and security

(3) Nations should recognise international law as rule binding on their conduct

(4) Nations should uphold international justice and honour their treaty obligations scrupulously

(5) There should be an international organisation known as the League of Nations to fulfil the provisions of the Covenant

(6) Peace treaties and supplementary agreements pertaining to the Mandate System and the protection of national minorities should be enforced

C Structure of the League of Nations

Not a State or Super-State Those who were too optimistic of the League of Nations did not realise that it was not a world state or super-state having the power to militarily coerce

1 J S Roucek and Others *Introduction to Political Science* (1954), p 661

the states of the world R G Gettell points out "The League of Nations was not a state, nor was it a super-state It was an organised association of sovereign states, created by a treaty, a confederation world-wide in scope It had a legal personality, it owned property and had a treasury and a budget of its own But it had no territory no citizens or subjects, no army, navy, or police"[1]

The League of Nations functioned through four organs

(1) The League Assembly

(2) The League Council,

(3) The Secretariat-General, and

(4) The Permanent Court of International Justice

Besides these, an autonomous body within the League known as the International Labour Organisation was set up

1 **The League Assembly** The League Assembly was the organ in which every member state had representation Thus, it was the biggest body The representatives of the different member states sat in the League Assembly In the beginning, membership was to be restricted to 32 allied and associated states, 13 neutral states and the new states created by the Peace Treaty Though the idea of the League came from President Wilson of the USA the American Senate refused to ratify the treaty by which the USA was to join the League, and thus the USA had to stay out of the League

For some time, the Central Powers like Germany were not given admission into League of Nations Hungary was admitted in 1922

By 1932 the League had fifty-five members

Soviet Russia was given admission not before 1934

Each state had the right of sending not more than three representatives, but it had only one vote The Assembly could deal with any matter coming within the jurisdiction of the League, and its decisions in non-procedural matters had to be unanimous It voted the budget, approved of the work of the Council and other organs, and drew up conventions which were to be approved by the member states

The Assembly, which was a representative and deliberative organ was to meet at least once a year It met in several special sessions Its procedure was parliamentary, and it had several committees attached to it

1 *Political Science* (1956) p 477

2 The League Council The Council was the most powerful organ of the League of Nations and on it almost entirely depended the success or failure of the League It was a small body composed of five permanent members, and four non-permanent members, who were to be annually elected by the Assembly Originally it was decided that Britain, France, Italy, Japan and the USA were to be permanent members, but as the USA kept out of the League, only four powers became permanent members Thus Big Powers were given permanent membership, and Small Powers temporary membership In 1922, two non-permanent members were added, and in 1926 a permanent seat was given to Germany thus increasing the permanent members to five

The League Council could take up any matter coming within the sphere of the League of Nations or any matter concerned with the peace of the world Here again, decisions had to be unanimous The League Council could conduct any investigation when peace was disturbed or take steps for conciliation or recom mend any action in keeping with the principles of the League Covenant

The Council held four sessions annually, it also held special sessions if necessary

3 The Secretariat-General This was a permanent organ at Geneva, whose work was to carry on the day-to-day routine executive work of the League of Nations according to the directions of its chief officer known as the Secretary-General, who was appointed by the Council with the approval of the majority of members in the Assembly The Secretary-General made all the appointments in his office

The Secretariat maintained all records of the League published treaties or international agreements and conducted all the necessary correspondence

4 The Permanent Court of International Justice This was established at the Hague to settle international disputes It was composed of nine Judges and four Deputy Judges, who were elected for a term of nine years by the Assembly and the Council Besides hearing disputes, it also gave legal opinion whenever it was sought

5 International Labour Office and Other Special Organizations Besides the above organs, there were special organisations and committees, among these the most important was the Inter-

(3) The League was successful in its non-political work The International Labour Organisation did much to improve conditions of labour and collected vital statistics

(4) Its rehabilitation work in Austria, Hungary and Greece was commendable

(5) It took steps to check traffic in opium

(6) It creditably organised international regimes like that of the free city of Danzig

(7) The Health Committee did much to control malaria

(8) It rendered useful service in its efforts to suppress traffic in women and children in 1921 In 1933 a new convention prohibited the employment of women for immoral purposes even if they voluntarily consented

(9) It promoted intellectual co-operation among nations

Miserable Failure in Preventing Second World War The League however failed miserably in its most important duty of preventing war and protecting weak nations from the aggressive designs of the strong powers Big powers were not slow to realise that it was better to be aggressive than peace-loving Aggression paid good dividends, whereas peaceful nations were left in the lurch The League succeeded in dealing effectively with minor powers who went against the League Covenant, but when the major powers took the law in their own hands, and preyed upon weak nations, it revealed its utter bankruptcy and helplessness

The following examples showed the meaningless existence of the League of Nations

1 **Japanese Aggression on China** In 1931, Japan committed aggression on China and seized Manchuria The League could not do anything worth-while beyond appointing the Lytton Commission (1931) to conduct an inquiry into the Sino-Japanese affair It took nearly two years for the Commission to prepare its report, and by the time the League adopted the report against Japan in 1933, she left the League with impunity The work of the Commission was a big joke, for it could not prevent Japan from snatching away Manchuria and enjoying the fruits of aggression

2 **Italian Aggression on Ethiopia** The League could not go to the rescue of Ethiopia, which was attacked and annexed by Benito Mussolini, the Fascist dictator of Italy in 1934-35

3 **Destruction of Spanish Republic** When Germany and Italy destroyed the Republic of Spain, a member of the League,

the big powers did not take action on the ground that it
internal affair of Spain

4 Hitler's Aggressive Activities Hitler went on m
with his schemes of aggression and expansion He militarise
Rhine land broke treaties, heavily armed Germany, ann
Austria and dismembered Czechoslovakia in 1938 In 1939, Germ
seized Albania

5 Aggression by Soviet Russia Soviet Russia also start
her aggression and joined with Hitlerite Germany in conquer
Poland

Collapse of the League In the beginning of September 1939
the League collapsed with its utter helplessness to do anything
when Hitler's international gangsters raped Poland, and World War
II began Gettell says "The collapse of the League System was
already an accomplished fact when Germany invaded Poland one
year after Munich had brought "peace in our time" This time
no attempt was made by the Powers to invoke the now defunct
machinery of the League for it was too late to reconstruct the
system of collective security Alone and unaided by the allies
whom they had sacrificed to the aggressor, the remaining League
Powers faced a war of annihilation in which their own security
and independence were threatened with destruction" The League
thus came to an inglorious end "The League's white palace in
the Ariana Park by the shores of Geneva's Lake Leman therefore
became in the end a sepulchre

F Why the League Failed

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(3) Weak Powers Let Down Weak powers like China, and Ethiopia were let down badly, when they needed the League's help as victims of aggression

(4) Hypocrisy of Big Powers The representatives of big nations in the League spoke of high principles, but were not prepared to uphold the right and just causes, and did nothing when they were expected to translate words into deeds While Italy was criticised for her aggression on Ethiopia, certain powers supplied with vital war material The aggressors confirmed their view that the League was not serious in its business and assumed bolder aggressive postures The major powers allowed and encouraged aggressive nations to prey upon the weak helpless nations

(5) Aggressive Nationalism and Imperialism Aggressive natio nalism and imperialism, the primary evils in international relations could be easily nurtured in spite of the existence of the League The powerful countries of the world were not prepared to give up imperialist tactics It was easy for them to talk, but very hard to put their words into practice Even democracies like England and France continued their imperialist attitude and policy, their craze for land, and their hunt for raw materials and markets Italy, Germany and Japan developed aggressive nationalism and imperialism Soviet Russia under Stalin's dictatorship was not lagging behind the other dictatorships in committing aggression In fact, almost all the major powers created conditions, which were highly detrimental to the principles of the League Covenant The League could not check the making of secret treaties which formed the root cause of war

(6) Germany, Italy and Japan Armed to the Teeth There was a great rivalry between imperialist countries, which were all armed to the teeth The League would not check the race in armaments Germany, Italy and Japan formed an "Axis" for aggression They left the League with impunity On March 27 1933 Japan withdrew from the League, Germany gave up the League membership on October 21, 1933, and Italy virtually ceased to be a member from October, 1935, when she raped Ethiopia Hitler arming

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the big powers did not take action on the ground that it was an internal affair of Spain

4 **Hitler's Aggressive Activities** Hitler went on merrily with his schemes of aggression and expansion He militarised the Rhine land, broke treaties, heavily armed Germany, annexed Austria and dismembered Czechoslovakia in 1938 In 1939, Germany seized Albania

5 **Aggression by Soviet Russia** Soviet Russia also started her aggression and joined with Hitlerite Germany in conquering Poland

Collapse of the League In the beginning of September 1939, the League collapsed with its utter helplessness to do anything, when Hitler s international gangsters raped Poland, and World War II began Gettell says "The collapse of the League System was already an accomplished fact when Germany invaded Poland one year after Munich had brought "peace in our time" This time no attempt was made by the Powers to invoke the now defunct machinery of the League, for it was too late to reconstruct the system of collective security Alone and unaided by the allies whom they had sacrificed to the aggressor, the remaining League Powers faced a war of annihilation in which their own security and independence were threatened with destruction"[1] The League thus came to an inglorious end "The League's white palace in the Ariana Park by the shores of Geneva's Lake Leman, therefore, became, in the end, a sepulchre"

E Why the League Failed

Domination of Big Powers, Power Politics and Hypocrisy The League of Nations failed miserably and became a laughing stock of the world The small powers got no justice from it, and was next to useless in protecting their interests, when they were attacked, by big powers, which were its permanent members The big powers had contempt for its weakness, for it had no teeth and was absolutely helpless, when aggressive nations held the world to ransom The League was described as the "League of Notions", the "Geneva Council of Fools," "A League of Thieves" and so on

The following were the causes of its failure

(1) *Big Powers Dominated* The League was dominated by the big powers Both in ide and outside the League, the major

1 Ibid, p 485

powers pursued their own interests and went against the League Covenant, which they were expected to uphold

(2) *USA not Member* The USA whose President (Wilson), gave the idea of the League and helped to establish it was outside it, as the American Senate did not ratify President Wilson's action

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(5) *Aggressive Nationalism and Imperialism* Aggressive natio nalism and imperialism, the primary evils in international relations could be easily nurtured in spite of the existence of the League The powerful countries of the world were not prepared to give up imperialist tactics It was easy for them to talk, but very hard to put their words into practice Even democracies like England and France continued their imperialist attitude and policy, their craze for land and their hunt for raw materials and markets Italy, Germany and Japan developed aggressive nationalism and imperialism Soviet Russia under Stalin's dictatorship was not lagging behind the other dictatorships in committing aggression In fact almost all the major powers created conditions, which were highly detrimental to the principles of the League Covenant The League could not check the making of secret treaties, which formed the root cause of war

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Germans to the teeth made preparations for World War II and very early in September, 1939 Germany attacked Poland and World War II began

(7) *Rule of Unanimity* The rule that decisions must be unanimous made it almost impossible to punish states which violated the League Covenant The League could be paralyzed by a lack of unanimity, at the very time when it was necessary for it to act swiftly

(8) *Absence of an International Enforcement Agency* No action is possible in any institution, if there is no machinery to give effect to its decisions There was no international enforcement machinery to deal with a member state, flouting the principles of the League Covenant and going to war This great drawback was fully exploited by powers like Italy, Germany, Japan and Russia

Lessons for the Future In spite of the failure of the League of Nations, we cannot run it down completely, for it must be remembered that too much was expected of it and it was started at a time, when the major powers were honestly not prepared for translating into action the high ideals of the League The failure of the League held out lessons for the future and the League also provided a model to the United Nations Organisation The UNO was able to take advantage of the lessons of the League and avoid pitfalls "Despite the League s failure in its major task, the prevention of war, it left a mark of no small proportions on human history In the first place, it had so well expressed the fundamental desires of a large portion of humanity that its goals came to be accepted part of international affairs Structurally its influence was seen in the make up of the United Nations Wilson's great dream was not a complete failure It will always remain a glowing example of idealism in practice, and its collapse is merely proof not that Wilson was wrong but that he lived ahead of his time "[1] (See Chapters 36 and 37 for international Relations)

MAIN POINTS

1 **Background** Machinery to settle international disputes Hague Conferences advocate Permanent Court of Arbitration in the 19th century

2 **Birth and Aims** Birth of the League of Nations at the end of World War I Leading role of President Woodrow Wilson To promote international peace and understanding and prevent outbreak of another world war

1 J S Roucek and Others *Introduction to Political Science* (1954) pp 667-69

3 **Structure** 1 League Assembly 2 League Council 3 Permanent Court of International Justice 4 The Secretariat General 5 ILO and other special organizations

4 **Record of League** Heavy responsibility without adequate powers Indirect methods of action Success in small disputes and excellent non-political work Cases of failure 1 Japanese aggression on China 2 Italian aggression on Ethiopia 3 Destruction of Spanish Republic 4 Hitler s aggressive activities 5 Aggression by Soviet Russia

5 **Reasons for Failure** 1 Big power domination 2 USA not member 3 Weak powers let down 4 Hypocrisy of big powers 5 Aggressive nationalism and imperialism 6 Armaments race 7 Rule of unanimity 8 Absence of international decision-enforcing machinery

CHAPTER 66

THE UNITED NATIONS ORGANISATION

The United Nations Organization (UNO) was established during World War II after the League of Nations became defunct.

A Background and Birth of the UNO

Demand of War Aims The failure of the League of Nations was evident when World War II broke out in September, 1939 Since the beginning of the war, peoples all over the world wanted the democracies (which were fighting against Nazism and Fascism) to declare their war aims

Roosevelt's Four Freedoms In 1941, President F D Roosevelt beclared that every nationality had the right to nationhood He also spoke of the celebrated Four Freedoms

(1) Freedom of speech and expression,
(2) Freedom of religion,
(3) Freedom from fear, and
(4) Freedom from fear

In upholding these Four Freedoms, Roosevelt was upholding human rights and the dignity of man

The Atlantic Charter President F D Roosevelt and Winston Churchill (the Prime Minister of Britain) declared the war aims of the Allies through the famous *Atlantic Charter* on August 14, 1941 The *Atlantic Charter is as significant as the Fourteen Points* of President Woodrow Wilson The *Charter* stated

(1) The Allies seek no aggrandisement of any type
(2) Territorial changes will be according to the wishes of the people
(3) Peoples have the right to choose the type of government they want
(4) The Allies will try to provide all states access on equal terms to trade and raw materials

(5) They will try to bring about the fullest collaboration among nations in the economic field

(6) After the Nazi tyranny is destroyed, they hope to establish peace, which will give safety and security to all nations

(7) Such peace ' should enable all men to transverse the high seas and oceans without hindrance "

(8) All nations of the world must give up the use of force

Adoption of UN Declaration These eight points were very noble or even pious On January 1, 1942 representative of 26 governments adopted the United Nations Declaration based on the principles of the *Atlantic Charter* In October 1943, a declaration regarding the need to have an international organisation was made at Moscow by the Foreign Secretaries of the USA, the UK, the USSR and China

Difference between Words and Deeds The leaders of Western democracies applied a double standard, one for the East and another for the West The Afro-Asian countries were not put on a par with Western countries, and the *Atlantic Charter* was not applied to them Indians felt humiliated, when they were told that it was not applicable to India

An Association of United Nations Mere pious declarations regarding the post-war world were not enough a permanent institution had to be organised to safeguard the peace and security of the world R G Gettell says "The Allies, being convinced that complete victory over the Axis was essential to their own freedom and independence, came together on January 1, 1942, to form an association of United Nations During the course of the war, at the periodic conferences of the big powers Casablanca, Quebec Moscow, Teheran and Yalta-the Allies began to stress their intention of remaining united in peace as well as in war"[1] The idea of reviving the discredited and defunct League of Nations did not find favour with the Allies The League had become the laughing stock of the world, and no nation had faith in it

Dumbarton Oaks Conference On October 7, 1944 at the Dumbarton Oaks Conference in the USA a plan drawn up by the USA was placed before the representatives of England the USSR and China It was decided at this Conference that a new plan to establish an international organisation to maintain peace and prevent war should be submitted to the governments of all the

1 *Political Science* (1956) p 484

United Nations The plan envisaged the establishment of a new eleven-member body known as the Security Council, which would have at its disposal armed forces to be used effectively against a nation, which would go against world peace

Talks on Security Council at Yalta The new plan which held out substantial hope before the world was given very wide publicity The new international organisation was not to be tooth less like the League of Nations for it was to have military power to coerce a power violating the principles of the UN Charter The Security Council of the UNO was to have more power than the League Council

Roosevelt, Stalin and Churchill held a conference at Yalta in the Crimea to discuss the voting procedure in the Security Council

On February 11, 1945 it was decided at Yalta that a plenary conference of the United Nations would be held at San Francisco on April 25, 1945 to follow up the plan drawn up at Dumbarton Oaks and Yalta

San Francisco Conference As decided earlier, a conference was held at San Francisco, and at ten plenary sessions delegates from fifty nations were present At 400 committee meetings, details about the future international organisation were drawn up Thus the enthusiasm to save the world from a future world war was very much in evidence By that time, the world had witnessed the unprecedented devastation and sorrow that World War II had brought to peoples of all the continents

Adoption of the UN Charter On June 25, 1945 at a plenary session, the Charter of the United Nations was unanimously adopted by fiftyone nations The UN Charter is a long document consisting of a Preamble and 111 Articles

The action of the delegates of the various states at the San Francisco Conference had to be ratified by a certain minimum states by their parliaments for the actual establishment of the new international organisation The governments of the major powers and of a large number of small states gave the necessary approval, and it became possible for the United Nations Organisation to see the light of the day on October 24, 1945

The UNO had a background of about four years of preparation

B Aims and Principles of the UNO

Preamble to the UN Charter The ideals and aims of the UNO are given in the Preamble to the United Nations Charter

"We the peoples of the United Nations determined to save succeeding generations from the scourge of war To Reaffirm faith in fundamental human rights To Establish conditions under which justice and respect can be maintained To Promote social progress and better standards of life in larger freedom To Practise tolerance and live together in peace To Unite our strength to maintain international peace To Ensure that armed force shall not be used save in common interest To Employ international machinery for the promotion of the economic and social advancement of all peoples"[1]

Aims The purposes of the UNO are

(1) to maintain international peace and security;

(2) to develop friendly relations among nations

(3) to cooperate internationally in solving international economic, social cultural, and humanitarian problems and in promoting respect for human rights and human freedoms

(4) to be a centre for harmonising the actions of nations in attaining these common ends.[2]

UN Principles and Obligations of Members The principles of the UNO and the obligations of the member states are given in the UN Charter "It is based on the sovereign equality of all its members All members are to fulfil in good faith their Charter obligations They are to settle their international disputes by peaceful means and without endangering peace security and justice They are to refrain in their international relations from the threat and use of force against other states They are to give the United Nations every assistance in any action it takes in accordance with the Charter, and not to assist states against which preventive or enforcement action is being taken The United Nations is to ensure that states which are not members act in accordance with these principles in so far as is necessary to maintain international peace and security Nothing in the Charter is to authorise the United Nations to intervene in matters which are purely the national concern of any state"[3]

Thus the UNO upholds (1) the principle of equality among nation , (2) the need to co-operate for collective action, and (3) non-interference in the domestic affairs of states

1 *Basic Facts about the United Nations* (UN Publication 1950) p 9
2 Ibid p 10
3 Ibid p 10

C The Structure and Functions of the UNO

Not a World State or Super-State, but a Carrier of Moral Force The UNO is not a world state or a super-state, its members are sovereign states which are all on the footing of equality. While becoming a member, a state does not surrender its sovereignty. D C Coyle says "This is not a world government. This is a world meeting to talk over the pressing dangers of our times and to hunt for the way to prosperity and world peace. It cannot rule the world by making and enforcing a world law with planes and atom bombs. But it can bring to bear the moral weight of world opinion. The recommendations of the Assembly of the United Nations may be all the more effective, because they do not demand obedience but only ask a decent respect for the opinions of mankind"[1]

Six Principal Organs The UNO has six principal organs

(1) The General Assembly
(2) The Security Council
(3) The Economic and Social Council
(4) The Trusteeship Council,
(5) The International Court of Justice, and
(6) The Secretariat

Besides these, there are specialised agencies of the UNO

The head-quarters of the UNO are at New York

All the peace-loving states subscribing to the principles of the UN Charter can become the members of the UNO

The UNO is a huge organisation in which about 18,000 staff members work in the main organs and in the various agencies throughout the world. About 16,000 members work in the economic and the social fields

The normal times, around 85% of the funds are utilised for social and economic activities

1 The General Assembly

Biggest Organ Consisting of All Members The General Assembly is the largest of all the organs of the UNO. It consists of all the member states. It is the only organ in which all members sit for deliberation and discussion. Originally 51 countries that met at San Francisco signed the UN Declaration in 1945. From 51 in 1945 the membership went up to 126 in 1970

1 *The United Nations and How It Works* (1961) p IX

In January, 1965, Indonesia under President Sukarno's leadership withdrew from the UNO, but in 1966 with the fall of Sukarno, it re-entered the world organisation

People's Republic of China, North Korea, South Korea, Western Germany, Eastern Germany, North Vietnam, South Vietnam and Switzerland are not members of the UNO

Each member state can send not more than five representatives, but each state has only one vote

Annual Session and Special Sessions Normally, the Assembly has to meet in regular session once a year in September but special sessions can be held at the request of the majority of the members of the Security Council

President, Seven Vice-Presidents and Committees The President of the General Assembly is elected for each session The Assembly elects seven Vice-Presidents and sets up seven basic working committees

(1) A General or Steering Committee,
(2) Political and Security Committee,
(3) Economic and Financial Committee,
(4) Social, Humanitarian and Cultural Committee
(5) Trusteeship Committee,
(6) Legal Committee, and
(7) Administration and Budgetary Committee

Unanimity not Needed It must be noted that the General Assembly does not have the powers of a national parliament It cannot make laws for the various states of the world It is only a deliberative body, which can discuss any matter within the scope of the *Charter* Unlike in the League Assembly, all important decisions in the UN General Assembly do not require unanimity, they are decided by two-thirds majority of the members present and voting All other questions are decided by a simple majority

Functions The functions of the General Assembly are the following

(a) maintaining peace and security
(b) electing members of other organs,
(c) admitting, expelling or suspending member states,
(d) taking up questions of trusteeship,
(e) discussing budgetary questions

It elects the six non-permanent members of the Security Council for two years, chooses all the eighteen members of the Economic and Social Council, selects members of the Trusteeship Council and appoints the Secretary-General on the recommendation of the Security Council The General Assembly and the Security Council independently of each other elect the fifteen judges of the International Court of Justice

Studies on Various Matters The General Assembly enjoys wide powers to commence studies in order to promote international cooperation in political, economic, social, cultural, educational and health matters In these matters, it chiefly works through the Economic and Social Council

To Discuss any Matter within Scope of UN Charter The Assembly is competent to take up for discussion any question which is within the scope of the *Charter* and within the sphere of the activities of the UNO It can discuss and make recommendations on any question pertaining to international peace and security, when it is brought before it by any member state or at times even by a non-member state The General Assembly, however, cannot discuss a question or make recommendation at a time, when it is being discussed by the Security Council, unless the Security Council itself requests it to do so The General Assembly is competent to draw the attention of the Security Council to situations, which are likely to disturb world peace

The recommendations made by the General Assembly on any question are not legally binding, yet they are not to be lightly treated Their significance lies in the fact that they create strong public opinion in the world in favour of or against a particular state

2 The Security Council

Permanent and Non-Permanent Members The Security Council is a small body, but it is the most powerful organ of the UNO, and on it depends the success or failure of the UN It has eleven members five permanent and six non-permanent Non-permanent members (i e six) are elected by the Assembly, three each year, to serve for two years The major powers, that is, Britain, France, the USA, the USSR and China (not Communist China, but Kuomintang China or actually Formosa) are the permanent members of the Security Council

The small powers are given temporary seats in the Security Council By an amendment passed on 1st September 1965, the

Security Council was enlarged from 11 to 15, and the number of votes needed for decisions was raised from 7 to 9

Veto or Unanimity of Big Five The permanent members in the Security Council have a dominant voice in important matters They enjoy the power of veto or in other words, the unanimity of the Big Five is necessary in substantive matters For all procedural matters, any nine votes of the Security Council are necessary, but when substantive questions pertaining to military or economic sanctions are involved, the nine votes must include the five con current votes of the permanent members Thus a big power can exercise the right of throwing out a proposition by virtue of its veto power

A redeeming feature of this procedure, however is that a member state, which is a party to the dispute abstains from voting when the Security Council is discussing a peaceful settlement of the dispute

Security Council in Continuous Session The Security Council has to shoulder very heavy responsibilities, and hence the *Charter* provides for its continuous session The Council has to meet at least once in every two weeks or more frequently, if situations demand The primary responsibility of maintaining international peace and security rests on the shoulders of the Security Council It can call upon parties to settle their disputes peacefully It is also empowered to conduct an investigation into a situation, which endangers world peace

Steps to End Aggression It can take one of the following steps, if aggression has been actually committed

(1) It can call upon the parties concerned to settle their dispute peacefully

(2) It can provide a solution to the dispute by proposing certain terms of settlement

(3) It can suggest a proper procedure for ending the dispute

(4) It can call upon member states to cut off diplomatic relations, economic relations or communications with the state or states, which flout the decisions of the UNO

Military Staff Committee The Security Council unlike the Council of the League of Nations has the assistance of a Military Staff Committee for advice and action on all military requirements Article 43 of the *Charter* requires every member state to

supply military forces needed by the Security Council to deal with a situation

3 The Economic and Social Council

Eighteen Members Elected by General Assembly The Economic and Social Council is composed of 18 members elected by the General Assembly, 6 are elected each year, and the normal term of each member state is three years, one-third retiring every year According to an amendment passed on September 1, 1965, the strength of this Council was raised from 18 to 27 The Council holds at least two regular sessions a year Every country which gets a seat in this Council has one vote, and all decisions are taken by a simple majority The Council elects its own President for one year

Social Economic, Health and Other Problems Its functions are

(1) promoting higher standards of living by bringing about economic and social progress,

(2) finding solutions of international social, health, economic and such other related problems, and

(3) observing the maintenance of human rights and fundamental freedoms

Commissions and Committees The Council carries on its work with the help of several commissions, standing committees, *ad hoc* committees and special bodies

Commissions are of two types viz (1) Functional and (2) Regional

Functional commissions deal with human rights social status of women, fiscal and population problems, narcotic drugs, questions of transport and communication, economic problems and so on

Regional Commissions deal with particular areas Regional commissions like the Economic Commission for Europe (ECE), Economic Commission for Asia and Far East (ECAFE) with its head-quarters at Bangkok, Thailand, Economic Commission for Latin America and Economic Commission for Africa (ECA) with its head-quarters at Addis Ababa have been set up Standing and special bodies have been appointed to work under it viz the International Children's Emergency Fund, and the Permanent Central Opium Board The IBRD, the IMF, the ICAO and the UNESCO also work under it

The Trusteeship Council

Deals with Trust Territories The Trusteeship Council is nposed of permanent members of the Security Council except ose administering trust territories, member states which administer st territories, and other states elected by the General Assembly G Gettell says "The trusteeship system applies to territories d under mandate, territories of the enemy states of the Second orld War, and territories voluntarily placed under the system states responsible for their administration"[1] It meets at least ice a year It elects at each regular session a President Its ictions are the following

(1) to deal with the administration and supervision of territories iced under it by trusteeship agreements,

(2) to receive reports from the administration of trust terri- ries and also receive complaints and petitions from the peoples trust territories

Trusteeships The trusteeships are

(1) Tanganyika, the Cameroons and Togoland under Britain,

(2) The Cameroons and Togoland under France,

(3) New Guinea under Australia,

(4) Western Samoa under New Zealand, and

(5) Ruanda-Urundi under Belgium The trustees were given ry wide powers to administer territories subject to the principles the *UN Charter*

The International Court of Justice

Fifteen Elected Judges The International Court of Justice ts at the Hague in the Netherlands It is composed of fifteen idges, who are elected independently by the Assembly and the ecurity Council for a period of three years No two judges hould belong to the same country The judges elect one among nem as President of the Court for three years Five judges retire very year, but the court as a whole is in permanent session Decisions are taken by majority, the quorum required is 9

Cannot Impose Verdict The International Court does ave the power to impose its verdict on disputing parties ame way in which the judiciary in a state can on the which appear before it, as all member states of the

1 *Political Science* (1956) p 489

sovereign, and the UNO the parent body itself has no sovereignty Hence, there are serious limitations on the jurisdiction of the Court It is not possible for it to summon any state to submit to its jurisdiction against its will The Court hears disputes when the parties concerned agree to abide by its decisions The Security Council is competent to take necessary steps to give effect to its judgements The Court also gives advisory opinion on legal matters

6 The Secretariat

Routine Work The routine work of the UNO is done by the Secretariat, which works according to the instructions of the Secretary-General The Secretariat has nine departments each under an Assistant Secretary

Secretary-General The Secretary-General whose term is five years is appointed by the General Assembly on the recommendations of the Security Council In the Security Council, at least seven members including all the permanent members must agree to the nomination of the Secretary-General and in the General Assembly, a simple majority is necessary

The SG appoints his staff according to the regulations of the General Assembly The Secretary-General and the members of the staff who are all appointed by him are the servants of the UNO, and they should not receive or carry out the instructions of any government or authority, which is external to the organisation

The Secretaries-General who served so far are Trygve Lie of Norway, Dag Hammarskjoeld of Sweden, and U Thant of Burma In 1966, U Thant was appointed SG for a second time

Members of Secretariat The members of the Secretariat discharge various kinds of duties Among members there are lawyers, scientists, economists, social scientists, statisticians, editors, librarians, cartographers and so on The total staff is approximately of 5000 members, among whom about 3300 work at New York and the rest are doing field work

Functions The functions of the Secretariat are the following

(1) to carry out the administrative responsibilities of the UNO,

(2) to maintain records, and

(3) to register and publish all treaties

The functions of the Secretary-General are the following

(1) to control and direct the Secretariat,

(2) to carry out the work entrusted to it by the different organs,

(3) to summon special sessions of the General Assembly,

(4) to submit a report to the General Assembly of the UN work, and

(5) to see in general that the wheels of the UNO keep revolving

Death of Hammarskjeld and Troika The death of the Secretary-General Dag Hammarskjoeld on September 18, 1961 in a "plane crash" in the Congo, when he was engaged in the difficult task of solving the Congo Crisis gave rise to a great controversy between the USSR and the Western powers regarding the appointment of a successor At one time, it seemed that the relations between the West and the Soviet Union might break down At the Sixteenth Session of the General Assembly held on the 19th of September 1961, very unpleasant scenes were witnessed, and the atmosphere was vitiated by anger, hatred, fear and suspicion Members of the Soviet Bloc renewed their demand for triple leadership, which was called *Troika* (*Troika* is a sleigh drawn by three horses in Russia) They suggested that in the place of one Secretary-General, there should be three persons hailing from different nations and holding different political opinions One person was to represent communist states, one to represent the West, and one to represent neutral nations

The Western powers and even neutral powers opposed the *Troika* proposal tooth and nail, as they felt that three persons may find it difficult to reach unanimity It would sow the seed of endless controversies, and paralyse the UNO President John Kennedy opined "that even real *Troikas* skimming across Russian snowfields, had three horses, but only one driver to keep them from pulling in different directions" It was obviously sensible to give the reins to a single leader The *Troika* was sure to worsen the difficult position of the UNO

7 Specialised Agencies of the UNO

(a) Specialised Agencies The following are the fourteen specialised agencies of the UNO

(1) International Labour Organisation (ILO) This started functioning in 1919, that is, 26 years before the birth of the UNO,

(2) Food and Agricultural Organisation (FAO) This was established in 1945 It deals with farming, forestry, fisheries and conditions of rural people

(3) United Nations Educational, Scientific and Cultural Organisation (UNESCO) This brings about "collaboration among the nations through education, science and culture in order to further universal respect for justice for the rule of law, and for the human rights and fundamental freedoms which are affirmed for the peoples of the world without distinction of race, sex, language, or religion by the Charter of the United Nations" The UNESCO General Conference composed of representatives of the member countries holds sessions biannually The General Conference elects the Executive Board of 18 members, which meets at least twice a year

(4) International Bank for Reconstruction and Development (IBRD)

(5) International Monetary Fund (IMF)

(6) World Health Organisation (WHO)

(7) International Development Association (IDA)

(8) International Finance Corporation (IFC)

(9) International Civil Aviation Organisation (ICAO)

(10) Universal Postal Union (UPU) The headquarters of the UPU are in Berne

(11 International Telecommunication Union (ITU) The Central office of the ITU is in Geneva, Switzerland

(12) World Meterological Organisation (WMO)

(13) Inter Governmental Maritime Consultative Organisation (IMCO) Its head-quarters are in London

(14) International Atomic Energy Agency (IAEA)

In the field of trade, no specialised agency exists, but an international commercial treaty has been formed i e GATT (General Agreement on Tariffs and Trade) Members of the GATT have set up a permanent body to administer GATT it is called Organisation for Trade Co-operation (OTC)

(15) United Nations Children's Fund (UNICEF) 'Its work in controlling TB, trachoma and other diseases in the backward regions of Africa and Asia and its contribution towards improving the lot of nearly 1000 million children in over 100 countries are

a saga of selfless service" Thus by December 1966, the UNICEF could proudly boast of its great humanitarian service

(16) Special UN Fund for Economic Development (SUNFED)

There are also Non-governmental Organisations On June 30, 1960 there were 333 non-governmental organisations (NGOs) having consultative status

(b) Regional Arrangements D C Coyle points out "According to the UN Charter, member nations may form regional alliances to maintain peace and security, provided these activities are *consistent with the Purposes and Principles of the United Nations*"[1]

The following are the associations of UN members outside the UNO

(1) Commonwealth The members are Australia, Canada, Ceylon Cyprus, Ghana, India, Malaya, New Zealand, Nigeria, Pakistan, the UK and several other countries

(2) South East Asia Treaty Organisation (SEATO) The members are Australia, France, New Zealand, Pakistan, Philippines, Thailand, the UK and the USA

(3) Central Treaty Organisation (CENTO) The members are Iran, Pakistan, Turkey, the United Kingdom, and the United States (members main committee only)

(4) North Atlantic Treaty Organisation (NATO) The members are Belgium, Canada, Denmark France, Greece, Ireland, Italy, Luxemburg, the Netherlands Norway, Portugal, Turkey, the UK and the United States

(5) League of Arab States The members are Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Tunisia, the U A R and Yemen

(6) European Economic Community (Common Market) The members are Belgium, Federal Republic of Germany, France, Italy, Luxumberg and the Netherlands

(7) European Free Trade Area The members are Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the UK

(8) Organisation of American States Latin American countries and the United States are its members

D C Coyle says 'All these alliances and united agencies are designed to fortify the peace by military, economic, and political cooperation They are auxiliaries to the United Nations They cover areas smaller than the UN world-wide field of action regions in

1 *The United Nations and How it Works* (1961) p 118

which the nations have in common more principles and traditions of united action than the world as a whole"[1]

D Record of the UNO

1 The UNO and the League of Nations

UNO Better than League The nations of the world, which witnessed the helplessness of the League of Nations, particularly when big powers took the law into their own hands, wanted to avoid the pitfalls of the League Representatives of fifty nations that met at San Francisco in 1945 decided to put the UNO on stronger foundations than those of the discredited and defunct League of Nations

Better Structure and More Powers for UNO The structure and procedure of the UNO are far better than those of the League of Nations, and the Security Council is more competent than the League Council in handling problems endangering world peace E B Schulz says 'The UN differs from the League in having an expanded organisation in abandonment, for the most part of the rule of unanimity in the reaching of decisions in empowering the Security Council to decide on measures for the maintenance of peace and to take the action it considers necessary for the purpose on behalf of all members of the United Nations, and in provision for the placement of armed forces at the Security Council's disposal'[2] J S Roucek and others also say that the UNO is a distinct improvement over the League 'In the first place the Security Council is the focus of power, no attempt is made to place real authority in the hands of the Assembly Secondly, the great powers of the world are recognised to be the arbiters of international relations and although this fact is an unpleasant one, the planners of the United Nations were realistic enough to take it into account Recognition of the fact that minor economic and social squabbles sometimes pyramid into major international disputes is shown by the powers given to the Economic and Social Council"[3]

Improvement of UNO over League of Nations The UNO is better than the League in the following respects

(1) It is more broadbased than the League

(2) The UN Charter is more realistic than the League Covenant

1 Ibid p 118
2 *Essentials of Government* (1961) p 505
3 *Introduction to Political Science* (1954) p 673

(3) From the very outset the USA and the USSR (which were not in the League as the USA did not join and Soviet Russia was not a member till 1934) have been members of the UNO

(4) The Security Council is charged with the responsibility of maintaining world peace and security It has a Military Staff Committee to assist and advise it on all military requirements Thus it is not toothless like the League Council Article 43 of the Charter requires every member to supply military forces needed by the Security Council to take action

(5) The UN Charter condemns war more emphatically than the League Covenant

(6) The Covenant of the League of Nations was tied to the vindictive Treaty of Versailles, on the other hand, the UN Charter has nothing to do with peace treaties This puts the UN Charter on a higher moral plane than the League Covenant

2 Drawbacks of the UNO

Disappointment The objectives fixed at the San Francisco Conference in 1945 have not been realised and those who took the word of big men at their face value have been greatly disappointed "It is true that in several ways the UN as a peace maker has not worked out as the San Francisco Conference expected On the minus side there were two serious disappointments the failure to settle World War II and the excessive use of the veto"

The UNO has been criticised on the following grounds

1 *Dominated by Big Powers* It is dominated by big powers and among these the will of the Super Powers the USA and the USSR counts more than that of others It is not possible to take any action against the major powers, particularly the Super Powers, if they themselves commit aggression The Security Council can take action against small powers, but it will never take or rather it will be impossible for it to take action against the Super Powers It is possible for aggressors to get away with impunity

2 *The Veto* The veto puts too much emphasis on the powers and responsibilities of the permanent members of the Security Council

Significance of Uniting for Peace Resolution The veto, no doubt, made it difficult for the UNO to act, but the General

Assembly could act effectively and meaningfully several times "The UNO cannot take military steps or adopt coercive measures against a recalcitrant member, who actually threatens the peace of the world, if any permanent member makes use of the veto The USSR has hampered action many times by the use of the veto Till September 1964, Soviet Russia used the veto 102 times A redeeming feature however is the passing of the celebrated Uniting for Peace Resolution in 1950 by the General Assembly by a vote of 52 to 5 " The resolution says "If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace breach of the peace or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to the members for collective measures including in the case of a breach of the peace or act of aggression the use of armed force when necessary to maintain or restore international peace and security "

Emergency Session of General Assembly The General Assembly may meet in an emergency session in 24 hours, if any request for this is made by any seven members of the Security Council or by a majority of members of the UNO D C Coyle says ' If any new war should flare up between two small states or parties in a state, it may well be that the aggressor is secretly backed by one of the Great Powers, but that the backer, while prepared to veto any Security Council action is not prepared to fight openly at the risk of a world war In such a case the Assembly could promptly declare which side is the aggressor, and other Great Powers could then come in on the side of the victim, as several did in Korea without necessarily starting World War III "[1] The Uniting for Peace Resolution repairs to some extent the damage done by the veto Doyle adds 'In the Assembly, the smaller nations who naturally resent the veto power, have a majority of the votes, and the Assembly has voted from time to time to admonish the Powers about their use of the veto There is no force on earth, capable of making a Power give up what it regards as its legal rights, unless it may be the force of world opinion "[2]

1 *The United Nations and How It Works* (1961) p 111
2 Ibid p 164

3 *Two Power Blocs* The UNO presents a divided front The USA, the UK and their followers are antagonistic to the USSR and her followers The cold war between the power blocs vitiated the atmosphere of the world, and made the world speak in terms of another World War The Super Powers can convert the cold war into a shooting war, if they so desire It is however gratifying to note that with the improvement in the relationship between the USA and the USSR, with the acceptance by the latter of the principle of coexistence in the days of Krushchev and with the efforts made by Russia for a *detente* with the West in the light of Chinese hostility to Russia, the cold war has receded Russia has been assuming in recent years reasonable postures with a spirit of compromise, which was unknown in the days of Stalin

4 *No Seat for Communist China* Ignoring the reality, the USA and other Western powers have barred the entry of Communist China into the UNO, and China is 'represented' by Formosa The dislike of communism is the main cause of such an attitude of the Western powers Even if certain powers disagree with Communist China, it is no reason to keep China out, as, the *UN Charter* allows the people of a country to have the type of government they like

5 *War Preparations* The UNO has not been able to prevent nations from arming themselves In the ultimate analysis, the lives of millions of innocent men, women, and children, who have no interest in power politics are in the hands of powers, which have nuclear weapons

6 *No Action in Certain Cases* The UNO could not go to the rescue of weak countries, when Big Powers attacked them When 30,000 Hungarians were butchered by the Russian soldiery in 1956 for suppressing the Hungarian Revolution, no action was taken by the UNO on the ground that it was a "domestic question" Similarly, racial discrimination in South Africa which is against the *UN Charter* has not been checked, as this has also been regarded as a subject coming under the domestic affairs of South Africa Article 2, Para 7 of the *UN Charter* prevents the UNO from interfering in the internal affairs of a state The clause has provided a strong shield to the activities of interested powers

7 *Questions not Judged on Merits* Mostly questions are not judged on merits Every question is viewed through the angle of a particular power bloc For instance, in the Kashmir dispute, which was taken up by India to the UNO, the most important point that the tribal invaders aided by Pakistan committed aggression on Kashmir in 1948 has been side-tracked by interested powers, and the aggressor and the victim of aggression have been put on the same level Pakistan, the aggressor has been encouraged by imperialist powers, and no justice has been done to India What could have been settled in a short time has not been settled even after nineteen long years

In August-September 1965 again Pakistan committed aggression on India for grabbing Kashmir and India had to protect herself militarily The UN Security Council again put Pakistan, the aggressor and India, the aggressed on the same footing, and without even doing the elementary duty of naming the aggressor called upon both the countries to stop the Indo-Pakistan War The USA, a Super Power and permanent member of the Security Council had armed Pakistan with Patton Tanks and other sophisticated weapons and materials to fight against India The USA failed to restrain Pakistan and do justice to India No major power including Soviet Russia came to the rescue of India, on the other hand, India was asked by Premier Alexei Kosygin of Soviet Russia to sign the Tashkent Peace Declaration with Pakistan in January 1966 Though Prime Minister Mr Lal Bahadur Shastri, who signed the agreement appreciated Soviet Russia's role as a peace-maker, it cannot be overlooked that no punitive measures were taken on Pakistan Pakistan got no rap on the knuckles from the Security Council but India, the victim of aggression was asked to give up her gains in the Indo-Pakistan War without getting anything from Pakistan on a reciprocal basis Even though Pakistan has been violating the Tashkent Agreement repeatedly, the Security Council has been silent over the violation

8 *Imperialism Unchecked* Imperialism, which is the most important source of war has remained unchecked Seeing the growth of imperialism backed by nuclear weapons, one finds it difficult to allocate the blame to a particular power If the USA has developed her dollar imperialism and sees danger to her interests all over the world, the USSR and Communist China have developed communist imperialism The clash between the two imperialist blocs is inevitable The UNO has been almost a helpless spectator of the

big power wrangles The UNO has not been able to check communist imperialism and American imperialism in Vietnam Vietnam is in shambles owing to war, as the UNO has not been able to stop the Vietnam War

9 *Difficulty of Taking Military Action* Though Article 43 calls upon the members to provide military forces to the UN Military Staff Committee, there is no permanent army at its disposal Armies are to be provided according to the principle of national quotas during times of emergency The position of the Security Council will be most unenviable, if the 'national quotas'' of troops do not come forward The armies provided by various members are heterogeneous, and they may not be effective in dealing with aggressive powers, whose armies are better equipped

10 *Signing of Pacts* The signing of pacts like the NATO, the SEATO, the ANZUS and the Baghdad Pact are injurious to the interests of the UNO, because the members of these organisations are likely to take up arms much against the *Charter* if their allies are attacked by a third party

11 *Complaints of Weak Nations not Heard* The World Court shook the faith of weak nations in its sense of justice, when it rejected in 1966 the plaints of Siberia and Ethiopia wanting South Africa to surrender its old League of Nations' mandate over S W Africa to the UNO as successor to the League This showed the favouritism of the Court towards S Africa which wanted to perpetuate its colonial hold over S W Africa The verdict shocked Afro-Asian nations, as it was an ugly triumph for S Africa s policy of apartheid

3 The Good Work of the UNO

UNO the only Hope The instances in which the *UNO failed* can be multiplied and held out before the world to run it down completely In spite of its real drawbacks and its mistakes of omission and commission efforts must be made to improve the structure and working of the UNO instead of condeming it altogether Abolition of the UNO will be a suicidal step as there is no alternative to the UNO The UNO is the only hope of the world and everything must be done to save it from sharing the fate of the League of Nations Those who cynically say that the UNO has been a total *failure* must be called upon to give an alternative to the UNO As this is an impossible task, the only course open to the world is to get on with it with patience and co-operate with it *fully* *Mere* criticism or condemnation of the UNO leads the world nowhere

Successful Cases of Intervention The efforts made by the UNO in localising war or tackling some of the dangerous questions have been laudable

The following are some of the cases successfully handled by the UNO

1 *Syria and Lebanon* (1946) After World War II, British and French troops did not withdraw from Syria and Lebanon, which complained in February, 1946 to the UNO In spite of the Soviet Veto, the armies withdrew owing to moral effect of the Security Council's Resolution

2 *The Corfu Channel Dispute* (1946) The dispute between Britain and Albania regarding loss of life and material suffered by Britain in the Corfu Channel (off the coast of Albania) in October, 1946 was settled by the International Court of justice

3 *Indonesia* (1947) The Netherlands launched "police action" against the Indonesian Republic, and the Republic of Indonesia took it as an act of aggression Owing to the UN intervention, cease fire was arranged in August 1947, and the final settlement between the Netherlands and Indonesia was made in January, 1948

4 *Greece* (1947) In 1947, the dispute between Greece on one side and the neighbouring communist states of Albania, Yugoslavia and Bulgaria on the other was settled

5 *The Berlin Blockade* (1948) The UK, the USA and France complained to the Security Council in September 1948 that the USSR had cut off land communications between the Western Zones of Germany and Berlin Action was vetoed by Soviet Russia, but the informal discussions in the UN corridors among the representatives of the Big Four led to an agreement

6 *Palestine* (1948) On May 15, 1948 the British mandate over Palestine ended, and on the same day the establishment of the Jewish State of Israel was proclaimed The Arab States marched against Israel The Security Council gave a cease-fire order on May 22, 1948 A UN mediator was able to arrange for a truce, which lasted for four weeks Fighting flared up again, but the UN succeeded in restoring truce on January 7, 1949 The Palestine question was one of the most difficult problems which the UNO had to handle

7 *Korean War* (1950) On June 25, 1950 North Korean troops crossed the 38th parallel and invaded the Korean Republic The Security Council called upon the invading forces to withdraw,

and the General Assembly asked Communist China to end hostilities Under the banner of the UNO, the USA and fifteen other nations sent troops to defend South Korea This is a concrete example to show that the UNO was capable of taking military action War was localised In February, 1951 the Assembly declared Peiping as the aggressor The UNO succeeded in reaching armistice terms The Security Council was boycotted by Soviet Russia, and thus in the absence of the Soviet Veto the UNO could take action

8 *The Suez Canal Problem* (1956) The nationalisation of the Suez Canal on July 26, 1956 threatened the peace of the world, for on October 29, Israeli forces crossed the Egyptian border, occupied the Sinai Peninsula and marched in the direction of the Suez Canal French and British forces occupied the northern end of the Suez Canal Zone The UN Assembly passed a resolution on November 3–4, 1956 *demanding cessation of hostilities Ten nations, none of which was a major power sent forces to Egypt to maintain peace under the direction of the UNO Then British,* French and Israeli forces began to withdraw from Egypt and the UN forces took up posts in the Suez Canal Area By the middle of April, 1957 the crisis ended, and the Suez Canal was again *thrown open* to traffic The Suez Canal dispute enabled the UNO to evolve a new kind of police force, that is, the UN Emergency Force (UNEF) The experience gained in Egypt was useful in handling the Congo crisis

9 *The Congo Crisis* (1960) After the Congo got independence from Belgium, the Republic of Congo was set up on July 14, 1960, but unfortunately, owing to various causes, authority broke down, and the country became a cockpit of diverse local and foreign imperialist interests, and a clear danger spot to world peace In September, 1961 Dag Hammarskjoeld, the Secretary General who went to the Congo to solve the crisis died in an "aeroplane crash" *Sabotage was suspected* Such developments showed that the Congo was in the grip of complete violence and *insanity*, and at any moment the Congo *flames might have* enveloped the whole world But the UNO ultimately succeeded, though after two years since the crisis began It was encouraging to see ready response from various nations, when the UNO gave a call for troops Thus, again under the banner of the UNO nations co-operated to localise the danger, and prevented the outbreak of another world war

In several other cases too, the UNO intervened with great success

Proud Non-political Record The UNO has a proud record of achievements in the social, economic and other spheres, as shown by the following instances

1 *Human Rights* The UNO has done much for the good of the individual, who is not to be treated as a negligible quantity On December, 1948 the General Assembly unanimously adopted the *Universal Declaration of Human Rights* "In thirty articles the Declaration set forth the basic rights to which all men and women were entitled These include amongst others the right to life, liberty and security of person freedom from slavery, freedom from arbitrary arrest the right to fair trial, freedom of movement the right to a nationality the right to marry and found a family, freedom of thought, conscience and religion, freedom of opinion and expression, the right to vote, to work and to the enjoyment of an adequate standard of living"

2 *Social Progress and Better Standard of Life* The UNO has done much to bring about social and economic progress in the various parts of the world The various agencies of the UNO have been conspicuous in promoting international co-operation in the interests of social progress and better standard of life

3 *Work in Underdeveloped Countries* The UNO has done constructive work in improving the lot of the people in underdeveloped countries

4 *Humanitarian and Social Work* The UNO has done much to give protection to people from diseases like malaria, and rendered useful social and humanitarian services It has provided relief to refugees

5 *Technical and Financial Assistance* Underdeveloped countries have been given technical and financial assistance

6 *Trusteeship* According to the UN *Charter*, the UNO has provided effective trusteeship with a view to the final realisation of statehood and independence

7 *Legal Work* Very useful and high standard legal work has been done by the International Court of Justice In November 1947, the International Law Commission was established

8 *Convention on Genocide* On December 11, 1946 the General Assembly unanimously declared genocide as crime under international law, and a couple of years later the Convention on Genocide was unanimously adopted

9 *Research Work and Dissemination of Knowledge* Experts have done invaluable research work in many fields for the benefit of the world A bumper crop of highly useful literature dealing with various branches of knowledge has been produced

10 *Test Ban and Nuclear Non Proliferation Treaties* On August 7, 1963 a Partial Test Ban Treaty was signed among Soviet Russia, the USA and Britain Representatives of 60 nations including the USA, the USSR and the UK signed a treaty on January 27, 1967 at Washington limiting outer space activities to peaceful purposes This was a great triumph for peace and a spirit of international co-operation

On March 5, 1970 the Nuclear Non-Proliferation Treaty was signed by the USA, the USSR and Britain Premier Kosygin of the Soviet Union said "Commitments renouncing proliferations of nuclear weapons are becoming a cardinal rule of international law Those states who are not parties to the treaty cannot but reckon with this rule"

Thus the UNO has done much to humanity, though it may suffer from legal difficulties, owing to the fact that states are not prepared to surrender their sovereignty The UNO has succeeded in building strong public opinion against aggression and in fighting against social and economic ills D C Coyle observes "So long as men can do wrong and tell lies, one of the greatest values of a market place of opinion is that such men are on view in the market In the long run, open disagreements openly arrived are more likely to be settled according to the moral judgment of man kind than secret plottings covered by a veil of silence"[1]

E Amendment of the Charter

The General Assembly or a General Conference my be specially convened for the purpose of amending the *Charter* A two third majority vote of its members (not merely of the two-thirds of the members present and voting) is necessary for amending any provision It is not easy to see through an amendment, because an amendment that has been passed must be ratified by at least two-thirds of the member states, and in these the Big Five permanent members of the Security Council must be included Thus, here again, the veto may be a hurdle to final ratification D C Coyle says "But the *Charter*, though hard to amend by formal voting, is flexible like the Constitution of the United States Just as the people of the United States have quietly mummified the Electoral

1 *The United Nations and How It Works* (1961) p 166

College and have built up the political parties, not mentioned in the Constitution, so the UN, finding the Security Council often unable to act has been shifting its duties to other organs not paralysed by any veto power"[1]

While it is necessary to amend the UN Charter to improve the working of the UNO, what is of greater importance is to improve the attitude towards the UNO for better results

Amendments On September 1, 1965 two amendments to the UN Charter came into effect One enlarged the strength of the Security Council from 11 to 15, and the other increased the membership of the Economic and Social Council from 18 to 27

UNO Silver Jubilee Celebrations On October 24, 1970 the UNO will celebrate its silver jubilee on its completion of 25 years

MAIN POINTS

1 **Background of UNO** Second World War (1939-45) Roosevelt's Four Freedoms War aims through the Atlantic Charter Need of an association of United Nations Dumbarton Oaks Conference Yalta discussions on Security Council San Francisco Conference and adoption of UN Charter in 1945

2 **Aims** To promote international peace and security and co-operation among nations Sovereign equality of all members

3 **Structure and Functions** Not a world state or super state. But carrier of moral force Six principal organs—

(a) General Assembly Security Council Economic and Social Council Trusteeship Council the International Court of Justice and the Secretariat. Unanimity not needed in General Assembly GA can discuss any matter within the scope of the UN Charter All member states have seats in GA

(b) Security Council Five permanent and ten (originally six) non-permanent members Veto or unanimity of the Big Five SC to be in continuous session Most important organ Great responsibility of maintaining world peace

(c) Economic and Social Council to deal with social economic health and other problems

(d) Trusteeship Council to deal with trust territories

(e) International Court of Justice

(f) The Secretariat to do routine work Secretary General to be in charge of Secretariat Death of Hammarskjoeld and Troika Constructive work of the specialised Agencies of the UNO-FAO, UNESCO WHO etc.

4 **Record of UNO** UNO better than the League of Nations in structure and powers Drawbacks-1 Dominated by Big Powers 2 Veto 3 Heavy armaments going on 4 No action in certain cases 5 Questions not judged on merits 6 Imperialism unchecked 7 Difficulty of taking military action 8 Signing of pacts

Good work of UNO Certain cases successfully solved Korean War Suez Canal Crisis Congo Crisis etc Constructive non-political work of various types Economic social financial technical and other fields covered by the various Specialised Agencies Work in undeveloped countries

1 Ibid p 159

Section XX
MODERN CONSTITUTIONS

CHAPTER 67

THE CONSTITUTIONS OF ENGLAND AND THE USA

1 The Constitution of England

A Introduction

Evolved, Unitary and Flexible England has an unwritten and flexible constitution, which was evolved in the course of several centuries by the genius of the British people The British did not have any violent revolution Through their Parliament, they fought against the autocratic Stuarts, and were able to establish the rule of law

England, as a parliamentary democracy, became a model to the world

The form of government is unitary

B The Executive

Cabinet Real Executive England has a parliamentary executive It consists of the King and Cabinet The King is only a titular head, and real power is in the hands of the Cabinet The Cabinet remains in power only as long as it enjoys the confidence of the House of Commons (See Chapter 53 on the Parliamentary Executive for details)

C The Legislature

Bicameral England has a bicameral legislature The upper house, the House of Lords has about 900 members, and the lower

house called the House of Commons has about 630 members (See Chapters 48 and 49 on the Legislature for details)

Parliament transacts its business through various committees

The House of Lords is almost powerless since 1949

The Cabinet is responsible to the House of Commons, and the Prime Minister is a member of that house

D The Judiciary

Rule of Law Unlike the Continental countries, England has the rule of law, and hence there are no separate administrative courts All people are subject to the same law, and there is equality before the law

Long back, all power was concentrated in the hands of the King and he was the final judge In course of time, the King organised the judicial circuits, that is, the judges of the King's Court moved from place to place to give justice The Court of the Chancery was working at a fixed place in London, but the Court of the King's Bench, the Court of Common Pleas and the Court of Exchequer deputed their circuit judges to go from place to place

Judicature Act 1873 An important landmark in the history of the English judiciary is the passing of the Judicature Act of 1873, which provided a basis of the judiciary This Act organised courts and fixed their jurisdiction areawise

From the County Courts to the Privy Council At the bottom in the judical organisation, there are the County Courts for civil cases, and Courts of the Justices of the Peace and the Borough Criminal Courts for criminal cases

Above these smaller courts, there is the Supreme Court of Judicature, which is split into two branches the High Court of Justice and the High Court of Appeal The High Court tries both civil and criminal cases, original and appellate

Still at a higher level there are the final Courts of Appeal, these are the House of Lords and the Judicial Committee of the Privy Council

II The Constitution of the USA

A Introduction

Federal System, Checks and Balances, and Presidential Executive The thirteen English colonies in the second-half of the eighteenth century won their independence and the USA was

born Originally, the USA established a Confederation But later it formed a federal form of government (For details see Chapter 43 on Federal Government) The Constitution of the USA, which paid great attention to the principle of separation of powers (in contrast to the British principle of fusion of powers) provided a system of checks and balances Americans were prejudiced against the government of George III and all British political institutions They did not follow the parliamentary system and the unitary pattern, but chose the presidential system and the federal pattern

B The Executive

Presidential Executive power in the USA is vested in the President (See Chapter 54 on the Presidential and other types of Executive for details on the President and his Secretaries) As the executive is non-responsible, the President is not responsible to the legislature, and his term goes by the calendar Once elected, he remains in office for four years

C The Legislature

Bicameral with Powerful Senate The legislature in the USA is known as the Congress The Congress is bicameral, the Senate is the upper house and the House of Representatives is the lower House The Senate exercises powers, which no second chamber in the world wields. (See Chapters 48 and 49 for details)

D The Judiciary

The judicial power in the USA is vested in the Supreme Court and courts subordinate to it It interprets the constitution and has the power of judicial review

E The States

The units of the Federation of the USA are known as States There are fifty States, and each State is an autonomous republic, which enjoys power as given in the Constitution Each State has its own elected executive, legislature and judiciary Executive power in the State is vested in the Governor Every State has a bicameral legislature The State judiciary consists of the Supreme Court and the subordinate courts

MAIN POINTS

1 **England** Evolved unitary and flexible constitution Cabinet real executive Bicameral legislature Rule of law Judiciary Act 1873

2 **USA** Frderation Presidential executive Checks and balances Supreme Court.

CHAPTER 68 THE CONSTITUTIONS OF FRANCE, SWITZERLAND, CANADA, GERMANY AND ITALY

1 Constitution of France

A Introduction

No Smooth Sailing France became a republic after the Bourbon monarchy was overthrown in the French Revolution (1789), but the republic fell practically speaking, with the rise of Napoleon as Emperor

After Napoleon was overthrown, once again France became a monarchy

With several vicissitudes, France came under the rule of Napoleon III Thus France did not have smooth sailing like England in constitutional matters

Five Republics France had five Republican Constitutions

The First French Republic lasted from 1792 to 1799

Ths Second Republic was from 1848 to 1852

The Third Republic from 1870 to 1940

During 1940-46 France had the Vichy Government

The Fourth Republic had a span of twelve years (1946-58)

In 1958, France had a new constitution and the Fifth Republic was set up President Charles De Gaulle enjoyed extraordinary power under this Republic

B The Constitution of the Third Republic (1870-1940)

Unitary State and Parliamentary Form France, a unitary state had a parliamentary form of government according to the Constitution of the Third Republic (1870-1940) The President was the nominal executive, and real executive power was vested in the cabinet, which was responsible to the legislature (both the houses) consisting of the Chamber of Deputies and the Senate

No Stability Cabinets in France under the Third Republic were extremely unstable During the 1871-1940 there were 105 cabinets The longest ministry lasted for about two years and

eleven months ! One of the ministries lasted for one day only ! Unlike England, France had several parties none of which could command a majority

In 1940, Hitler's armies overran France and the Vichy Government headed by Marshal Petain was established This was not recognised by the French and when Germany was overthrown, France was able to have her Fourth Republic

C The Constitution of the Fourth Republic (1946-58)

Under the Fourth Republic (1946-58), France had a unitary form of government The central government consisted of the President, the High Council and National Assembly

The Legislature was bicameral The National Assembly was the lower house and the Council of the Republic, the upper house

The Fourth Republic provided for a weak President His powers were exercised by ministers, every act of the President had to be countersigned by a minister The President was elected for seven years by the two chambers of the legislature at a joint sitting

The Fourth Republic had 28 Cabinets

D The Constitution of the Fifth Republic ,(1958—)

Great Problems of France and End of Fourth Republic The Fourth Republic came to an end owing to costly wars in Indo-China, inflation, financial difficulties of government, strikes, and the nationalist revolt in Algeria in 1954 The situation went out of control by 1957

Rise of De Gaulle On May 29, 1958 the President of France asked General De Gaulle to form a government, and the latter became Prime Minister on June 1, 1958

A new constitution drafted by De Gaulle and his ministers was submitted to a popular referendum on September 28, 1958 The confidence that people had in De Gaulle was evident by the approval of the Constitution by an overwhelming majority

Wide Powers of President The French President under the Fifth Republic enjoys extraordinary powers He is elected for seven years by an electoral college He presides over the Council of Ministers There is a vast difference between the President under the Fourth Republic and the President under the Fifth Republic

In France, unlike in Britain and India, the President presides over the cabinet and can on his sole authority dissolve Parliament The President in the Republic can weild real power To a great

extent the strong personality of General De Gaulle who became President has been responsible for tremendous increase in the powers of the President The President can act independently and is competent to make sweeping changes

Bicameral Legislature The legislature under the Fifth Republic is bicameral

Administrative Law and Mostly Written Law As regards the judiciary the lowest courts in France have the Justices of the Peace, who are paid Above these courts there are the courts in the arrondissements or sub-divisions, these can try civil and criminal cases

Above these, there are 27 Courts of Appeal The highest tribunal for ordinary cases is the Court of Cassation at Paris

An important feature of France is the prevalence of administrative law Almost all law is in written form, and unlike in England, there is no common law

Exit of Charles de Gaulle The 11 years of rule of General Charles de Gaulle unceremoniously ended towards the end of April 1969 The Constitution of the Fifth Republic was tailor-made for De Gaulle, and under this Constitution the President could have real power He made France strong and revived her glory again, and it was hardly possible to think of France without De Gaulle In April 1969, he vowed (though there was no need) that he would step down, if the electorate did not have full confidence in him De Gaulle failed to win in the referendum proposals to deprive the Senate of legislative power and give greater authority to regional councils This defeat was taken by him as a signal to step down Then Allan Poher, President of the French Senate took over as Acting President

A presidential poll was held in June 1969 De Gaulle did not contest, though there was no constitutional provision stipulating that former Presidents or one whose resignation has occasioned the election are ineligible as contenders

Georges Pompidou, who won the poll took over power as France's 19th President on June 20, 1969 He is the second President of the Fifth Republic

II The Constitution of Switzerland

A Introduction

Great Tolerance, Neutrality and Direct Methods of Legislation Switzerland is a unique country famous for its pacific attitude,

rality and direct methods of legislation like the referendum the initiative Though religion and language could have been ive factors, the Swiss people have shown the true democratic t of tolerance

Federal Constitution The Swiss Constitution is federal, igh in the title the term confederation has been used

The units of the federation are called Cantons There are ity-two Cantons, 19 whole Cantons and 6 half Cantons

As in the USA residuary powers are vested in the Cantons : the American Constitution the Swiss Constitution is written rigid

There are several political parties But it is noteworthy that terrific struggle for power by political parties witnessed in er countries is absent in Switzerland

The Federal Executive

Plural Executive and Combination of Parliamentary and sidential Executives The Swiss executive has combined in lf the features of the parliamentary and presidential systems ile the USA has a single executive, Switzerland has a plural collegiate one (See Chapter 54 for details)

The Federal Legislature

No Domination of Parties, No Committees and Direct Methods Legislation The federal legislature is bicameral The two ises are the National Council, the lower house and the Council States, the upper house Unlike the British, American and ian legislatures, the Swiss legislature is not dominated by political ties Similarly, committees do not function to as st the legi ire, as in these countries Switzerland has direct methods of islation (For details see Chapter 50)

The Federal Judiciary

Election of Judges and No Judicial Review The Federal ibunal, the federal judiciary is compo ed of 26 o 28 judges. ilike in Britain and India, judges are not appointed but elected : a term of six years Judges can stand for re-election and ierally they are re-elected

Unlike the Supreme Courts of the USA and India the Federal ibunal does not have the power of judicial re ew and [illegible] cla e any federal law ultra vires it is however [illegible] to

declare the law of a Canton or the Constitution of a Canton *ultra vires*

III The Constitution of Canada

A Introduction

Federation with Strong Centre The Constitutions of the Dominion of Canada was the product of the British North America Act of 1867

The Canadians tried to avoid the mistakes of the Americans in making their constitution, and hence they chose to have a strong centre It is sometimes said that Canada is a federation in form only, but not in spirit The unitary nature of the British Constitution had a profound effect on Canada (See Chapter 43 for details regarding the distribution of powers between the central government and the units) Canada has a parliamentary system of government

B The Executive

Cabinet System Technically, according to the North America Act of 1867, executive power is vested in the Queen of England, and theoretically all laws are enacted by King-in-Parliament, but in actual practice, this power has become obsolete, and now the Canadian parliament can pass any law

The Governor-General in Canada is the titular head, and real power is exercised by the Cabinet, which is responsible to the legislature

C The Legislature

Bicameral The legislature is bicameral, the two houses are the House of Commons, the lower house with about 262 members, and the Senate, the Upper House with 102 members (See Chapters 48 and 49 for the powers and functions of the legislature)

The Senate is weaker than the Hou e of Lords in England

D The Judiciary

The Supreme Court of Canada consists of the Chief Justice and five puisne judges Provinces have superior and inferior courts

Judges are appointed by the Governor-General on the recommendation of the Cabinet

E Provincial Government

Canada has ten provinces, each having its own separate executive, legislature and judiciary

IV The Constitution of Germany

A Introduction

Unification of Germany and Military Traditions Bismarck brought about the unification of Germany by a policy of blood and iron in 1870 The German Empire, in which Prussia had a dominant voice was a federation of 25 states each with its own executive, legislature and judiciary, but in practice Germany was not a true federation

Executive authority was vested in the Kaiser, the German Emperor

Germany could easily take to military traditions rather than to democratic institutions The soil of Germany was not congenial for democracy

Germany was defeated in World War I (1914-18) at the end of which she adopted the Weimar Constitution

Weimar Constitution The Weimar Constitution was federal and democratic Though the constitution was federal, it had a unitary bias It gave a list of fundamental rights

B The Executive

Real Power in Chancellor and Nominal Power in President According to the Weimar Constitution, the executive power was vested in the President (who was elected directly by the people for a term of seven years) and the Chancellor and his ministers

All executive power of the President was to be exercised by the Chancellor or the minister concerned, whose countersignature was necessary for the action of the President The President commanded little power however, the President was vested with wide powers during emergency

The Chancellor of the Republic who was in some respects like the British Premier was appointed by the President The Chancellor chose the other ministers

C The Legislature

Bicameral The Reichstag, the lower house and the Reichstrat, the upper house formed the bicameral legislature of Germany

The Constitution provided for the referendum, the initiat and the plebiscite

D The Judiciary

Germany had two types of courts ordinary and administrative In the Nazi regime of Hitler, justice was completely centralised

The Enabling Act of 1933 On January 30, 1933, Hitler became the Chancellor of Germany He was able to tear the Weimar Constitution to pieces and become the dictator of Germany (For details regarding the rise of Hitler see Chapter 34 on Nazism)

By the Enabling Act of 1933, all power was concentrated in the hands of Hitler, the leader and Reich Chancellor

E Germany After World War II

Four Zones After Germany's defeat in 1945 (in World War II), she was divided into four zones each of which was occupied by the USSR, the UK, the USA and France

Three Zones Formed into West German Federal Republic The Zones under the UK, the USA and France came under the West German Federal Republic, whose constitution was drawn up by a Parliamentary Council, which met in Bonn (1948–49)

In September 1949, the Bonn Constitution came into force

In May 1955, the three powers withdrew from Germany

According to the Constitution, West Germany became a Federal Republic

Executive power is vested in the President and the Chancellor

The legislature is bicameral

East German Democratic Republic East Germany became a German Democratic Republic under Russia's control, government is controlled by communists

V The Constitution of Italy

After World War I, the democratic constitution of Italy failed and Mussolini converted Italy into a Fascist State (See Chapter 33 on Fascism for details)

End of Monarchy and New Constitution During World War II, the Fascist State was shattered to pieces

In June, 1946 a referendum was held to decide whether Italy should have monarchy or republic, 54 3 per cent of the voters were in favour of a republic This brought to an end the power of the House of Savoy, which ruled for about 900 years

Unitary System and Parliamentary Executive The new constitution which was framed by the Constituent Assembly in

1947 came into force on January 1, 1948 It is written and rigid, and sets up a unitary form of government

The executive is parliamentary executive power is vested in the President and the Cabinet

The cabinet is responsible to both the houses the Senate and the Chamber of Deputies The highest court in Italy consists of 15 judges

MAIN POINTS

1 **France** No smooth sailing after the French Revolution (1789-92) Five Republics Unitary State and Parliamentary form No stability Fourth Republic (1946-58) Great problems of France and end of Fourth Republic Fifth Republic (1958—) Rise of De Gaulle Very wide powers of the president Bicameral legislature Administrative law

2 **Switzerland** Tolerance neutrality and direct methods of legi lation Plural executive and combination of parliamentary and presidential executive No domination of Parties Bicameral legislature Elected judges

3 **Constitution of Canada** Federation with strong centre Became model to India Cabinet system Bicameral legislature

4 **Constitution of Germany** Unification of Germany and military traditions Federal constitution with unitary bias Real power in Chancellor and nominal power in President Germany s defeat in World War II Four ones Three zones formed the West German Federal Republic East German Democratic Republic under Soviet Russia s control

5 **Italy** Abolition of Monarchy Unitary system and parliamentary executive

CHAPTER 69

THE CONSTITUTIONS OF SOVIET RUSSIA AND COMMUNIST CHINA

I The Constitution of Soviet Russia

A Introduction

Many Nationalities Languages and Dialects A significant feature of Russia is the existence of about 185 nationalities, in which about 150 languages and dialects are spoken

The Czarist regime in Russia was overthrown by the Bolshevik Revolution of 1917 The communists claimed that they established the Dictatorship of the Proletariat

First Constitution (1918) In July, 1918, the first Constitution of the Russian Socialist Federative Soviet Republic was drawn up by the Fifth All Russian Congress of Soviets

Second Constitution (1923) The Union of Soviet Socialist Republics (1923), which is known as the Second Constitution, heavily drew on the principles of the first Constitution

Stalin Constitution (1936) The Eighth Congress of the Soviet, which assembled on December 5, 1936 altered the Constitution, and the new Constitution known as the Stalin Constitution came into force The present Constitution is the Stalin Constitution, with some modifications

The Constitution has brought together sixteen Republics to form the Union of Soviet Socialist Republics

Right to Secede, Fundamental Rights, Right to Work, But Control of Communist Party Technically the units of the Soviet Union can secede, but in actual practice they do not enjoy the autonomy found in the State in the USA or India, or the Cantons of Switzerland, because the Union has very vast powers to bring about uniformity in the country Moreover, the communist party controls all political institutions from the top at the Union level to the bottom of each republic

The Constitution has drawn up fundamental rights

A praiseworthy feature of the constitution is the importance given to the right to work, which consists of "the right to guaranteed employment and payment for their work in accordance with its quantity and quality" But in actual practice they are not like the fundamental rights of democratic countries, for the USSR is a one-party totalitarian state dominated by the communists R N Gilchrist observes "As the Communist Party is in effect the Soviet Government, the organisation of the party is of more importance than the articles in the Constitution The party is composed of 6,000 000 members in total population over 200 000,000 "[1]

B The Executive

The Council of Ministers forms the top executive organ in the USSR It is "responsible and accountable" to the Supreme Soviet A unique feature of the Constitution is the Presidium (For details on the Soviet Executive, see Chapter 54)

C The Legislature

Bicameral The Supreme Soviet or the Legislature has two houses the Soviet of the Union and the Soviet of Nationalities The Soviet of the Union, the lower house, which was elected on March 14, 1954 had 700 members, members are elected by citizens for a term of four years Members of the Soviet of Nationalities are elected at the same time as the members of the Soviet of the Union In the 1954 elections, 631 members were elected

Both the houses have equal rights, and legislation can be initiated in any one of them Bills have to be passed through both the houses by a majority vote The Supreme Soviet works through various committees

D The Judiciary

Elected by Supreme Court The judges of the Supreme Court, the highest tribunal in the USSR are elected by Supreme Soviet for a period of five years

In each republic there is a Supreme Court, there are also the People's Courts and the Special Courts Judges of the Supreme Courts in the Republic are elected, so are those of people's courts

The pattern of government in the Constituent Republics is the same as that at the centre

[1] *Principles of Political Science* (1961) p 794

II The Constitution of Communist China

A Introduction

Overthrow of Manchus and Failure of Sun's Republic The Manchu dynasty, which exploited the masses for a long time, was overthrown, and China became a Republic in 1911 But the Republic could not deliver the goods, and after the death of Sun Yat-sen, the Father of Modern China, civil war broke out and in this the communists were successful The Kuomintang was overthrown, and Chiang Kai-Shek fled to Formosa

People s Republic of China In September 1949, the People's Republic of China was proclaimed The new constitution of China was adopted by the first National People s Congress in September, 1954 The form of government is unitary The constitution states the fundamental rights, but it must be noted here that China is a one-party totalitarian state, and the communist party dominates all the political institutions

Several Nationalities Like Soviet Russia, there are many nationalities

B The Executive

Chairman and Premier The executive power is vested in the Chairman of the People's Republic He is elected by the Congress for a term of four years

The highest executive organ is the State Council The Chairman appoints the Premier and Vice-Premier, and other members of the State Council

C The Legislature

Unicameral The National People's Congress, the legislature is unicameral It consists of 1226 members elected for a term of four years The Congress is the highest law-making body

D The Judiciary

The Supreme People s Court forms the highest tribunal in the state It consists of the President and several Vice-Presidents and Judges At the bottom, there are the local people's courts

MAIN POINTS

1 **Soviet Russia** Many nationalities languages and dialects Constitutions of 1918 and 1923 Stalin Constitution of 1936 Federal System Right to secede Totalitarion control of communist party Presidium Bicameral legislature Judges elected by Supreme Court

2 **China** Overthrow of Manchus Failure of Sun s Republic Establishment of People s Republic (1949) Constitution of 1954 President and Premier Unicameral legislature

CHAPTER 70 — THE CONSTITUTIONS OF AUSTRALIA, SOUTH AFRICA, EIRE (IRELAND), CEYLON, BURMA, JAPAN, PAKISTAN AND INDIA

I The Constitution of Australia

A Introduction

Federal Government with Residuary Powers with States Six self-governing colonies viz New South Wales Victoria, Queensland, South Australia, West Australia and Tasmania came together in 1901 to form the Commonwealth of Australia, according to the Commonwealth of Australia Constitution Act, 1900

The state is federal drawing inspiration from the USA rather than Canada The powers of the federal government are enumerated and the residuary powers are with the States

B The Executive

Cabinet System The executive power is technically in the hands of the British King, who appoints the Governor-General to exercise power on his behalf Real executive power is in the hands of the Cabinet, which is responsible to Parliament

C The Legislature

Bicameral The Commonwealth Parliament consists of two Houses viz the Senate, the Upper House of 60 members and the House of Representatives, the Lower House of about 121 members The two houses have equal powers, but money bills cannot originate in the upper house

D The Judiciary

Appointment by Governor-General The federal court known as the High Court of Australia is the highest court It has five judges appointed by the Governor-General Technically, the highest court of appeal is the Privy Council in England, though actually no cases go to it now

II The Constitution of South Africa

A Introduction

Unitary System with Wide Provincial Autonomy The Union of South Africa bringing together the Cape of Good Hope, the Natal, the Transvaal and the Orange Free State was formed under the South African Act of 1909 of the British Parliament

The government is unitary Unlike the Provinces of Canada which enjoy much autonomy, the Provinces of South Africa are completely under the control of the Union Government

In 1934, the Status of Union Act was passed by the Union Parliament, which introduced several changes and applied the Statute of Westminster to the Union

B The Executive

Governor-General and Cabinet The executive consists of the Governor-General (who represents the power of the British King) and the Cabinet, the former is a mere figure head and real power is in the hands of the latter The Cabinet functions like the British cabinet.

C The Legislature

Bicameral There are two houses the Senate, the upper house of 40 members and the House of Assembly, the lower house of 150 members The Senate is weak and money bills cannot be initiated in it

D The Judiciary

The judiciary consists of the Supreme Court with a chief justice and four other judges Divisions of this Court work in the Provinces

III The Constitution of Eire (Ireland)

A Introduction

Irish Free State Constitution Act The position of the Irish Free State according to the Irish Free State Constitution Act, 1922 of the British Parliament is like that of the Dominions in the British Empire

Not a Dominion but Sovereign Democratic State On June 14, 1937 a new constitution was made and enacted by a plebiscite held on July 1, 1937 According to this Ireland is a sovereign

democratic state, and there is no reference to the Crown De Valera always desired to snap connections with England Ireland is not a Dominion like Canada or Australia

B The Executive

President and Privy Council Executive power is in the hands of the President, who is elected by the people for a term of seven years He exercises very wide powers

The Privy Council consisting of members from different political parties assists the President The executive is parliamentary

C The Legislature

Bicameral There are two houses the Senate, the Upper House consisting of 60 members, and the House of Representatives (called the Dail Eireann) of about 138 members

IV The Constitution of Ceylon

A Introduction

The Constitution of Ceylon is the product of the British Ceylon (Constitution) Order in Council (May 15, 1946) On December 10, 1947 the Ceylon Independence Act was passed

B The Executive

Governor-General and Cabinet The executive power is vested in the Governor-General (who is appointed by the Crown) and the Cabinet, the former is the nominal executive, and real power is vested in the latter The executive is parliamentary

C The Legislature

Bicameral There are two houses, the Senate, the upper house of 30 members is a permanent body, and the House of Representatives, the lower house has 100 members

D The Judiciary

The judicial system in Ceylon is more or less like that of India There are District Courts and the Magistrates' Courts The highest court is the Supreme Court

V The Constitution of Burma

A Introduction

Federation Burma, which was under the British got independence on January 4, 1948 The Constitution is federal There are two lists of subjects the Union List and the State List The subjects which are not found in these lists are under the central

government The Constitution contains Directive Principles of State Policy and Rights of Citizens

B Executive

President and Cabinet The President, the formal head of the state is elected for five years by the two chambers of Parliament at a joint sitting As in India, the President exercises power with the advice of the cabinet The executive is parliamentary, and the ministry is responsible to the Chamber of Deputies

C The Legislature

Bicameral The legislature consists of two houses the Chamber of Nationalities, the upper house of 125 members and the chamber of Deputies, the lower house of 250 members The power of the two chambers, except in money bills, is equal

VI The Constitution of Japan

A Introduction

The present American-inspired constitution of Japan proclaiming the people's sovereignty came into effect on May 3, 1947

Imperialist Japan had to surrender after atom bombs were dropped on the cities of Hiroshima and Nagasaki in August, 1945

B The Executive

Emperor Ceremonial Head The Emperor has given up the attributes of divinity, and is now a mere ceremonial head

The executive is parliamentary Executive power is vested in the cabinet, which is responsible to the legislature

C The Legislature

Bicameral The legislature known as the Diet has two houses the House of Councillors of 250 members and the House of Representatives of 466 members Women have franchise for the first time The lower house is more powerful than the upper

D The Judiciary

The judiciary consists of the Supreme Court and other subordinate courts

VII The Constitution of Pakistan

A Introduction

Islamic Republic Pakistan was formed when India was partitioned in 1947 into two states viz India and Pakistan

Pakistan followed, with modifications, the Government of India Act of 1935, till February 29, 1956, when the new Republican Constitution came into force Pakistan is a member of the Commonwealth

The constitution speaks of Pakistan, a federation as an Islamic Republic.

It contains Directive Principles of State Policy and Fundamental Rights

B The Executive

Executive power is vested in the President and Cabinet Ayub Khan had risen to power in a bloodless military *coup* on October 27, 1958 overthrowing President Iskandar Mirza (See Chapter 40 for Ayub Khan's Controlled Democracy)

C The Legislature

The legislature consists of the National Assembly of 300 members divided between East and West Pakistan

D Provinces

Each Province has its own government consisting of the Governor and the Cabinet

E The Judiciary

The judiciary consists of the Supreme Court with the Chief Justice and not more than six judges

Fall of Ayub Khan and Rise of Yahya Khan Field Marshal Mohammed Ayub Khan could not govern as a dictator indefinitely under the cover of the so called Basic Democracy Towards the end of March 1969, the 61 year old President lost grip over the country as an unprecedented wave of bloodshed and lawlessness swept it In a broadcast, President Ayub Khan announced on March 25, 1969 that he was resigning after his rule of 10 years in favour of the 52 year old army commander, General Yahya Khan

Yahya Khan commanding the support of the army, navy and air force imposed martial law all over the country The Constitution was abrogated and ministers were no more in power

On March 31, 1969, Yahya Khan appointed himself President, and proclaimed that he would continue as President till elections were held on the basis of adult franchise. On April 4, 1969, in a surprise move, he restored the Constitution of 1962 (without the provisions of Fundamental Rights)

On March 28, 1970 President Yahya Khan set July 1, 1970 for the dissolution of the one-unit West Pakistan Province

On March 29, 1970, he announced the legal framework for the general election scheduled for October 5, 1970

Of a total of 313 seats in the proposed National Assembly, East Pakistan's share, according to population will be 169, including seven women West Pakistan's share will be 144, including six women

Regarding the strength of the Provincial Assemblies, the Presidential order laid down as follows

(1) East Pakistan Assembly 310 (including 10 women)
(2) Punjab 186 (including 6 women)
(3) Sind and Karachi 62 (including 2 women)
(4) Baluchistan 21 (including 1 woman)
(5) North-West Frontier Province 42 (including 2 women)

Elections for the general seats of the Assemblies would be on adult franchise, women would be elected by majority votes

VIII The Constitution of India

A Introduction

Sovereign Democratic Republic The Constitution of India came into force on January 26, 1950 India is a Sovereign Democratic Republic Government is federal There are three lists of subjects The Union List, the State List and the Concurrent List The Indian Federation has a strong centre like that of Canada, and in times of emergency the federal constitution can become unitary Residuary powers are with the centre

The constitution contains Directive Principles of State Policy and Fundamental Rights

India is a Secular State

B The Executive

Parliamentary Executive power is vested in the President, the Vice President and the Union Council of Ministers The real executive is responsible to parliament, and it works after the British model

Owing to the great leadership of Pandit Jawaharlal Nehru (who passed away on May 27, 1964) and other leaders, India could have stable ministries at the Centre

However, in the States, Ministries became unstable after the Fourth General Election (1967) (See Chapter 53 for the Parliamentary System in India)

C The Legislature

Rajya Sabha and Lok Sabha The legislature is bicameral The House of the People consisting of not more than 525 members is more powerful than the Council of States consisting of 250 members Parliament has functioned in a creditable manner

D The Judiciary

The Supreme Court is the highest court in India enjoying vast original and appellate powers Unlike the USA, which has a double system of courts, India has a single integrated judicial system

E The States

States were reorganized in 1956 on a linguistic basis according to the States Reorganisation Commission Report At present, there are 17 States and 10 Union Territories Each State has its own executive, legislature and judiciary Executive power in the State is vested in the Governor and the Cabinet Most of the States have a bicameral legislature The highest court in the State is the High Court

MAIN POINTS

1 **Australia** Six colonies federated Cabinet system Governor General nd Prime Minister Bicameral legislature

2 **S Africa** Unitary system with wide provincial autonomy Governor-General and Cabinet Bicameral legislature

3 **Eire** Not a Dominion but Sovereign Democratic State Wide powers f President Privy Council Parliamentary system Bicameral legislature.

4 **Ceylon** Parliamentary system

5 **Burma** Federation Parliamentary system.

6 **Japan** Parliamentary system Emperor ceremonial head.

7 **Pakistan** Federation An Islamic Republic. Ayub Khan's Controlled Democracy

8 **India** Sovereign Democratic Republic. Parliamentary system. Federation with strong unitary bias

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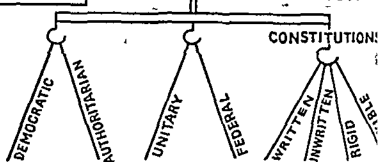
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ARISTOTLE'S CLASSIFICATION OF GOVERNMENTS

NORMAL	PERVERTED
MONARCHY	TYRANNY
ARISTOCRACY	OLIGARCHY
POLITY	DEMOCRACY



GOVERNMENT

EXECUTIVE — LEGISLATURE — JUDICIARY

ELECTORATE

PEOPLE

EXECUTIVE

SINGLE | PLURAL — HEREDITARY | ELECTED | NOMINATED — REAL | NOMINAL — PARLIAMENTARY | PRESIDENTIAL

POLICY — POLITICAL EXECUTIVE — MAKING

ROUTINE — PERMANENT EXECUTIVE (BUREAUCRACY) — WORK

FUNCTIONS

LAW & ORDER
WAR & PEACE
APPOINTMENTS
LEGISLATIVE
FINANCIAL
JUDICIAL
MISCELLANEOUS
WELFARE

TURE → DELEGATED LEGISLATION — EXECUTIVE WIDE POWERS

LEGISLATURE

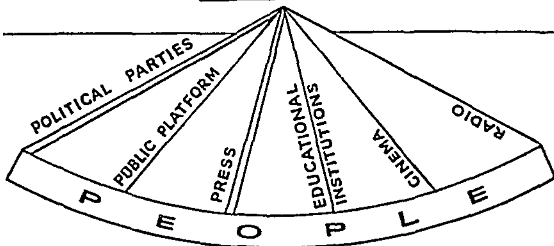
UNI-CAMERAL

BI CAMERAL

FUNCTIONS

- LEGISLATIVE
- DELIBERATIVE
- FINANCIAL
- ADMINISTRATIVE CONTROL
- JUDICIAL
- MISCELLANEOUS

PUBLIC OPINION



JUDICIARY

FUNCTIONS

- JUSTICE
- INTERPRETAION
- OPINION
- INJUNCTIONS
- JUDICIAL REVIEW

RULE OF LAW

ADMINISTRATIVE LAW

IECKS & ANCES

SEPARATION OF POWERS



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